

FREEDOM COURT REPORTING

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1 IN THE UNITED STATES DISTRICT COURT 2 FOR THE MIDDLE DISTRICT OF ALABAMA 3 SOUTHERN DIVISION 4 5 6 NANCY MARTIN and 7 MARY BETH BRACKIN, 8 Plaintiffs, 9 vs. CASE NO. 1:05-CV-1172-MEF 10 City of Dothan and 11 JUDGE ROSE EVANS-GORDON, 12 13 Defendants. 14 ***** 15 DEPOSITION OF ROSE EVANS-GORDON, taken 16 pursuant to stipulation and agreement before Sherry 17 McCaskey, Certified Court Reporter and Commissioner 18 for the State of Alabama at Large, in the Dothan 19 Civic Center, 126 N. Andrews Street, Dothan, 20 Alabama, on Tuesday, October 30, 2007, commencing at 21 approximately 9:00 a.m. 22 ***** 23	1 State of Alabama at Large, without the formality of 2 a commission; that objections to questions other 3 than objections as to the form of the questions need 4 not be made at this time but may be reserved for a 5 ruling at such time as the deposition may be offered 6 in evidence or used for any other purpose as 7 provided for by the Federal Rules of Civil 8 Procedure. 9 It is further stipulated and agreed by and 10 between counsel representing the parties in this 11 case that said deposition may be introduced at the 12 trial of this case or used in any manner by either 13 party hereto provided for by the Federal Rules of 14 Civil Procedure. 15 ***** 16 17 18 19 20 21 22 23
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1 APPEARANCES 2 FOR THE PLAINTIFFS: 3 ISHMAEL JAFFREE, ESQUIRE Jaffree Law 4 951 Government Street Suite 415 5 Mobile, Alabama 36604 FOR THE DEFENDANTS: 7 CAROL SUE NELSON, ESQUIRE Maynard, Cooper & Gayle 8 Attorneys at Law 2400 Amsouth/Harbert Plaza 9 1901 Sixth Avenue North Birmingham, Alabama 35203 10 ***** 11 EXAMINATINON INDEX 12 ROSE EVANS-GORDON 13 BY MR. JAFFREE 4 BY MS. NELSON 481 14 15 ***** 16 STIPULATIONS 17 It is hereby stipulated and agreed by and 18 between counsel representing the parties that the 19 deposition of ROSE EVANS-GORDON is taken pursuant to 20 the Federal Rules of Civil Procedure and that said 21 deposition may be taken before Sherry McCaskey, 22 Certified Court Reporter and Commissioner for the 23	1 (Witness waived right to read and 2 sign.) 3 ROSE EVANS-GORDON 4 The witness, having first been duly sworn 5 to speak the truth, the whole truth and nothing but 6 the truth, testified as follows: 7 EXAMINATION 8 BY MR. JAFFREE: 9 Q. Could you state your full name for the 10 Record? 11 A. Rose Evans-Gordon. 12 Q. Have you ever been known by any other name? 13 A. No. 14 Q. Do you have a maiden name? 15 A. Evans. 16 Q. Oh, okay. Have you ever -- 17 MR. JAFFREE: By the way, do we agree on 18 the normal stipulations? 19 MS. NELSON: Yes. 20 Q. Have you ever sat for a deposition before? 21 A. Not as a witness, no. 22 Q. Have you ever administered a deposition 23 before?

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1 A. Yes.	1 briefs. I represented state officials sued in
2 Q. Are you familiar with the purposes of a	2 their official capacities. It -- it varied.
3 deposition?	3 It depended on what division I was assigned
4 A. Yes.	4 to. I did a lot of administrative work for
5 Q. You understand, of course, that if I say	5 boards and agencies.
6 anything that you don't understand or that's	6 Q. And did you do any civil work?
7 not clear, you can ask me to restate it or	7 A. It was all civil.
8 rephrase it, and I'll do my best to do so.	8 Q. Okay. Did you appear in court --
9 A. Yes.	9 A. I did.
10 Q. Where are you currently employed?	10 Q. -- as opposed to administrative bodies?
11 A. City of Dothan.	11 A. Yes.
12 Q. In what capacity?	12 Q. What type of court cases did you handle?
13 A. Presiding judge of the City of Dothan's	13 A. Primarily, any case against a state official
14 Municipal Court.	14 sued in his official capacity, that I was
15 Q. And how long have you held that position?	15 assigned to. That's what the Attorney
16 A. I think this will be my eighth year.	16 General's Office is, the -- the State's
17 Q. When were you initially hired into that	17 attorney. So any official that was sued in
18 position?	18 his official capacity, I represented them if
19 A. December of 1999?	19 that case was assigned to me.
20 Q. You're not sure?	20 Q. Can you think of any case in particular that
21 A. Not sure. December or November of 1999.	21 you represented a public official?
22 Q. Prior to ascending or getting appointed to the	22 A. Innumerable. Prison wardens. I can't
23 position of judge of municipal court, did you	23 possibly because I was there almost 13 years,
1 occupy any other positions?	1 I think. So over the course of that 13 years,
2 A. I did.	2 I -- I went from department -- I mean, just
3 Q. And what was your most recent position that	3 depended on what I was assigned. I had no
4 you occupied prior to becoming a judge?	4 control over my assignments.
5 A. Prior to becoming a judge, I was an assistant	5 Q. So would you say that you was well-grounded in
6 attorney general in the Attorney General's	6 public service jurisprudence?
7 Office in Montgomery, Alabama.	7 MS. NELSON: Object to the form. I don't
8 Q. And from when to when did you occupy that	8 know if I understand it but you can
9 position?	9 answer.
10 A. From approximately October 1987. And that's	10 MR. JAFFREE: You found some problem with
11 an approximation.	11 the form?
12 Q. And until you got hired?	12 MS. NELSON: Yes.
13 A. I did.	13 Q. Do you know what well-versed means?
14 Q. And what was your principal job	14 A. I do.
15 responsibilities as assistant attorney	15 Q. Do you know what public service means?
16 general?	16 A. Public service, I think, is up to
17 A. It varied.	17 interpretation.
18 Q. Well, can you give me some examples of what	18 Q. How do you interpret it?
19 you did?	19 A. Public service is the work of the public good,
20 A. For example, for a couple of years, I was	20 basically.
21 assigned to the Public Service Commission to	21 Q. Okay. In case there was some ambiguity, are
22 represent the using and consuming public's	22 you well-versed in government employment
23 interest at the commission. I -- I wrote	23 litigation?

2 (Pages 5 to 8)

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1	A. No.	1 A. Few, very few.
2	Q. Well, you said you represented public officials.	2 Q. Do you recall any that you've written?
3	3 A. Very early in my tenure there, I was assigned to criminal appeals.	4
4	4 A. They were not necessarily employment issues of a government official. There might have been liability issues or policy, procedure, not necessarily employment issues.	5 Q. Well, during your 13 years with the Attorney General's Office, did you engage in any private practice?
5	6	6 A. No.
6	Q. Did you handle any cases --	7 Q. Now, prior to your appointment as an assistant attorney general -- is it appropriate to refer to that as an appointment?
7	8 A. No.	8 A. It was not an appointment. It was an employment. I was not a -- it was not an appointment.
8	Q. -- involving employment issues?	9 Q. Was it a competitive position?
9	10 A. None that I can remember specifically.	10 A. I applied.
10	Q. So if a governmental official was sued in his official capacity and it was an employment action or civil rights action dealing with employment, you wouldn't have represented that person?	11 Q. Was it a merit system --
11	12 A. They had in-house lawyers. For example, the Alabama Department of Corrections, they had in-house lawyers who represented the commissioner specifically. So, no, is the answer. I mean, none that I can think of specifically.	12 A. It was.
12	Q. Okay. Well, you said you occupied that	13 Q. So then you was a merit system employee?
13	14	14 A. I was.
14	Q. Okay. Well, you said you occupied that	15 Q. Did you have certain rights and responsibilities as a merit system employee?
15	16	16 MS. NELSON: Object to the form.
16	position 13 years.	17
17	A. I did.	18
18	Q. From when to when?	19
19	20 A. Approximately 13 years. It's from September or October of 1987 until November or December, 1999.	20
20	Q. In addition to representing governmental officials on the civil side, did you do anything on the criminal side?	21
21	A. No.	22
22	Q. So you have no criminal law experience at all?	23
23	A. Well, I mean, I do but I don't -- I didn't represent criminal defendants. I -- I've written briefs.	23
24	Q. On behalf of who?	24
25	A. The State of Alabama.	25
26	Q. In criminal cases?	26
27	A. No, not -- I mean, not specifically criminal cases. I guess appeals, criminal appeals.	27
28	29 But I never went to court.	28
29	Q. You've written criminal appellate briefs?	29
30	A. Right.	30
31	Q. Many, few?	31
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<p style="text-align: center;">Page 13</p> <p>1 Q. You did say you was a merit system employee? 2 A. Yes. 3 Q. And you felt that you could be terminated at will? 4 A. I always thought -- you know, I've always heard Alabama is an at-will employment state. 5 I mean, that's just -- 6 Q. Did you think that term to be absolute? 7 A. I didn't -- I didn't care. 8 MS. NELSON: Object to the form. 9 A. I mean, I don't know. I never thought about it. I always heard, Alabama is an at-will employment state. And that's just -- I never thought about it. 10 Q. Did you think when you was an assistant attorney general that if your appointing authority or your superior decided to terminate your services, they had to give you any notice? 11 A. I never thought about it. I mean, I -- I assumed. 12 Q. Did you think you had a right to some kind of hearing?</p>	<p style="text-align: center;">Page 15</p> <p>1 Q. -- your employment, you never knew that you had any rights? 2 A. I never thought about it. 3 Q. Well, did you get any kind of operations manual or employee handbook or -- 4 A. Probably 13 years -- I mean, in 1999 when I was hired, I probably did. 5 Q. I'm not talking 1999; we're talking about 1987. 6 A. 1987, even longer, I probably did. 7 Q. Okay. Do you know that merit system employees have a property right interest in continued employment? 8 A. No. 9 MS. NELSON: Object to the form. 10 Q. You don't know that? 11 A. I don't know that for a fact. I'd have to research it. But, no, I don't know that. 12 Q. Do you know that as a legal scholar? 13 A. No, I don't know that. 14 Q. Well, let's talk about your educational background. 15 A. Please.</p>
<p style="text-align: center;">Page 14</p> <p>1 MS. NELSON: I object to the form, what she thinks. 2 3 A. Yeah. And I never thought about it. I never -- I never thought about it. 4 5 MR. JAFFREE: Well, I shouldn't ask her what she thinks? 6 7 MS. NELSON: That's right. You can ask her what she knows. 8 9 Q. Are you capable of thinking? 10 A. No. 11 MS. NELSON: Object to the form. 12 A. Let's put some levity in here as you said yesterday. 13 14 Q. Well, did you know that you had a right to a hearing if your superior decided to take some adverse action against you? 15 16 A. If I say no, I didn't know that. I never thought about it. I was never put in that situation. I never looked into what my rights were as a merit system employee. I never looked into it. 17 18 Q. So for the 13 years of -- 19 20 A. I never thought about it.</p>	<p style="text-align: center;">Page 16</p> <p>1 Q. Excluding primary and secondary school, did you go to college anywhere? 2 A. I did. 3 Q. Where? 4 A. Fisk University in Nashville, Tennessee. 5 Q. What did you major in? 6 A. Political science and public administration. 7 Q. You majored in both -- 8 9 A. I did. 10 Q. -- courses? 11 A. Were you proficient in your public administration courses? 12 13 A. I assume; I graduated. 14 Q. You passed your public administration courses? 15 A. I did. 16 Q. Did you do fairly well in those courses? 17 A. I assume. I was salutatorian of my class. 18 Q. Was that course of study rigorous? 19 A. I assume. I didn't have anything to compare it to. 20 21 Q. Public administration, does that relate at all to the rights of public officials? 22 23 A. I -- I'm sure that's some of the course of</p>

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1 study.	1 Q. Well, let's get back to your law school
2 Q. And did you discuss the role of public	2 career. Do you recall any of the courses that
3 officials in the government square?	3 you took in law school?
4 A. If it did, it was 28 years ago.	4 A. Contracts. What you take in law school:
5 Q. So you have no recollection of what you may	5 criminal procedure, criminal law, contracts.
6 have learned in that course?	6 Q. Did you take any public administration law?
7 A. Not specifically, no.	7 A. Constitutional law. Public administration
8 Q. Okay. Now, after you successfully or rather	8 law?
9 poorly matriculated through Fisk, having	9 Q. Yes.
10 majored in public administration and political	10 A. No, I -- there was -- I worked at -- no.
11 science, did you go anywhere else?	11 Q. Any law --
12 A. I did.	12 A. I don't -- I don't remember.
13 Q. And where did you go after you left Fisk?	13 Q. Any law dealing with government service?
14 A. Tulane University School of Law, New Orleans,	14 A. I don't -- no. If I did, I don't remember
15 Louisiana.	15 specifically.
16 Q. And did you matriculate through Tulane?	16 Q. But you did take constitutional law?
17 A. I did.	17 A. I'm sure as part of my core classes I did.
18 Q. And did you get a JD?	18 Q. And was that perhaps a year course -- a
19 A. I did.	19 year-long course?
20 Q. Did you get any advanced degree beyond a JD?	20 A. I don't remember whether it was a year or
21 A. I did.	21 semester.
22 Q. What advanced degree did you get?	22 Q. And did your constitutional law course have a
23 A. I did a major course of study at Ely Broad	23 both criminal and civil component?
Page 18	Page 20
1 School of Management at the University of	1 A. I don't remember. Criminal law,
2 Michigan, public policies and procedures	2 constitution -- I don't remember.
3 toward my master's.	3 Q. You don't remember?
4 Q. And did you obtain a master's in that?	4 A. Huh-uh (negative response).
5 A. I did not.	5 MS. NELSON: Say yes or no.
6 Q. How many years did you spend at Tulane Law	6 A. Yes -- no, I don't remember.
7 School?	7 Q. You don't recall taking any courses or
8 A. Three or four. I graduated in 1984 -- '87,	8 studying any cases dealing with constitutional
9 three years.	9 law on the criminal side?
10 Q. Was that in New Orleans?	10 A. Not specifically, no.
11 A. It was. It is.	11 Q. All right. Do you remember studying any First
12 Q. Well, I just wanted to make sure it was?	12 Amendment jurisprudence?
13 A. No. I'm glad it still is because of the	13 A. Not specifically.
14 storm.	14 MS. NELSON: Again, I'm going to object to
15 Q. Well, I understand.	15 this line of questioning. If you're
16 A. I wasn't being sarcastic.	16 trying to question her about courses
17 Q. I guess, if it was in New Orleans at the time	17 that she took in 1987 about
18 you went, I guess that's the critical part of	18 constitutional law -- the law is what
19 this question. I'm glad, as well, that it	19 it is -- to try to get her to say that
20 still is.	20 she can, you know, interpret questions
21 Did you take and successfully pass the	21 of law in this case, I'm going to
22 Louisiana Bar?	22 object to.
23 A. I did not take the Louisiana Bar.	23 MR. JAFFREE: Okay. I took -- I was in

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1 law school in 1970, and I sort of 2 remember my constitutional law 3 question. But if you don't, fine. 4 MS. NELSON: The Constitution, as I 5 understand it, the Supreme Court 6 interprets that. And it -- their 7 interpretation changes from year to 8 year as to what the law is. So you 9 know, I'm objecting to this line of 10 questioning. 11 MR. JAFFREE: Sometimes they even go back. 12 MS. NELSON: Yeah. 13 MR. JAFFREE: And go back to what it was 14 before. 15 MS. NELSON: They do. 16 MR. JAFFREE: Back to -- 17 MS. NELSON: It's ever changing and 18 evolving, isn't it? 19 MR. JAFFREE: Well, that's a nice 20 theological -- 21 MS. NELSON: It is. We could debate this 22 all day. 23 MR. JAFFREE: Maybe philosophical debate	1 constitutional law class covered the First Amendment? 2 A. I'd hate to guess. You know, I don't -- 3 Q. You'd hate to guess? 4 A. I don't remember specifically. 5 Q. Do you remember specifically whether or not your constitutional law course covered the freedom of association? 6 A. No, I don't remember specifically. 7 Q. Well, irrespective of what you remember about your constitutional law class that may have been -- you said in 1980 -- have your fairly life-long experience working in the legal profession taught you anything about First Amendment jurisprudence? 8 A. No. 9 Q. All right. Do you know that there is a right to free speech? 10 A. Yes. 11 Q. Do you know that this is a right that government-sector employees have? 12 MS. NELSON: Object to the form. 13 A. And not specifically. I know it's right
Page 22	Page 24
1 between us, but this is my witness 2 here. And I'd like to ask her some 3 questions along this line. 4 Q. Did you realize from your constitutional law course that people have first amendment rights to allow them to engage in certain protected speech? 5 MS. NELSON: Object to the form. 6 A. And, you know, again I have to say, no. 7 Q. No? 8 A. Not from my constitutional law course, I 9 wouldn't -- I don't remember that. 10 Q. You don't recall any constitutional law courses dealing with protected speech? 11 A. Not specifically. 12 Q. Okay. Did your constitutional law cover the Constitution? Did it cover, let's say, the First Amendment of the Constitution? 13 A. I can only assume, and you want me to say yes or no. So -- 14 Q. Your best guess. 15 A. I don't remember. 16 Q. As your best guess, do you think your	1 that -- that's in the Bill of Rights as a part 2 of the Constitution. But, no. 3 Q. And do you -- 4 A. I don't know what rights government-sector employees have. 5 Q. And do you know that the rights of free speech includes the right to speak about matters of public concern? 6 MS. NELSON: Object to the form. And 7 you're asking her a legal question. 8 MR. JAFFREE: Should I apologize for that. 9 MS. NELSON: I said, I just object. It's 10 a -- 11 Q. Well, let me ask you this. 12 MS. NELSON: I mean, you're trying to 13 quote her the law -- 14 Q. Let me ask you this. 15 MS. NELSON: -- without any 16 qualifications. I just object to the 17 form. You can ask her if she knows. 18 MR. JAFFREE: Well, I thought she said 19 that -- 20 Q. Did you finish law school?

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1 A. I did.	1 A. No.
2 Q. Did you obtain a degree, a juris doctorate in	2 Q. So as far as you know, you're still a licensed
3 law?	3 attorney?
4 A. I did.	4 A. Yes.
5 MS. NELSON: You've asked her that.	5 Q. And as a licensed attorney, are you instructed
6 MR. JAFFREE: You said no qualifications.	6 to know some law?
7 I just wanted to make sure that I	7 A. By whom?
8 understood her qualification.	8 Q. By you.
9 Q. Did you subsequently take and pass some state	9 A. I mean, am I expected by whom to know some
10 bar examination?	10 law? I don't understand the question. I'm
11 A. I did. Yes.	11 sorry.
12 Q. Were you required as part of passing that	12 Q. Well, let's just say, if the general public
13 examination to be schooled in at least some	13 was aware that you had passed the bar exam and
14 state's body of law?	14 you had practiced law for 20 years, that the
15 A. Yes.	15 general public would expect you to know some
16 Q. And you did pass, right?	16 law?
17 A. Yes.	17 MS. NELSON: Object to the form. You can
18 Q. And whose bar did you pass?	18 answer.
19 A. Alabama.	19 A. Yeah. I don't know what he's going for. I
20 Q. Did you take any other bar from any other	20 don't understand the question.
21 state?	21 Q. Well, let me ask you --
22 A. I did not. No. No.	22 A. I mean, I don't -- okay. I don't remember the
23 Q. So you've only been licensed to practice in	23 specific courses I took in law school nor the
Page 26	Page 28
1 Alabama?	1 specifics. So I would -- I would lie if I
2 A. Yes. I've only been in Alabama.	2 said I did.
3 Q. Well, that's not totally true. You at least	3 Q. You have a judicial position?
4 spent some time in New Orleans.	4 A. I do.
5 A. I mean, not after I passed --	5 Q. And in that position, are you required to
6 Q. I'm just commenting.	6 dispense law?
7 A. -- to take the bar.	7 A. Dispense law?
8 Q. Yeah, I'm just commenting.	8 MS. NELSON: Object to the form.
9 A. I've only lived in Alabama since I finished	9 A. Okay. Yes.
10 law school.	10 Q. Okay. So is it correct to assume --
11 Q. Have you at any time from the time you -- by	11 A. I don't dispense law.
12 the way, when did you pass the bar exam?	12 Q. -- that you should know some law as a judge?
13 A. If I graduated in May of '87, then June, July,	13 A. Yes.
14 August. I guess I would have gotten the	14 Q. Okay. Now, let me ask you this: Would you
15 results in September of '87.	15 agree that since you are an attorney and have
16 Q. So --	16 been so in good standing for a long time and,
17 A. No, no, no. Because I started work in	17 further, since you are a judge who, as part of
18 October. Yeah, September or October '87. I	18 your responsibilities, is dispensing law, that
19 don't know.	19 you should not be judged like a layperson
20 Q. So you may have been a licensed attorney for	20 appointing authority who is not schooled in
21 the last 20 years?	21 the law, that you should be judged by a higher
22 A. Approximately.	22 standard? Would you agree with that?
23 Q. Have you lost that license for any reason?	23 MS. NELSON: Object to the form. Judged

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<p>1 by whom?</p> <p>2 A. And/or what? No. Because there are certain 3 areas of the law, for example, property law, 4 that I've never practiced, never researched, 5 never -- copyright law, never practiced, never 6 researched, never -- so it would be unfair to 7 judge me on those, even though I've been to 8 law school. Intellectual property law, I've 9 never practiced.</p> <p>10 So no, I don't think I should be judged by 11 a higher standard if I've never studied that 12 body of law just because I went to law school.</p> <p>13 Q. However, you have the capacity to understand 14 certain areas of the law that you don't 15 specialize in; is that correct?</p> <p>16 MS. NELSON: Object to the form.</p> <p>17 A. Do I have the capacity to understand it? I -- 18 I don't know. I don't know. I've never 19 tried.</p> <p>20 Q. You don't know whether you have the capacity 21 to understand certain areas of the law?</p> <p>22 A. Certain areas. I think all areas if I have 23 opportunity to learn it and research it.</p>	<p>1 A. It's -- yeah.</p> <p>2 Q. Would you consider yourself a neophyte?</p> <p>3 MS. NELSON: Object to the form.</p> <p>4 A. A neophyte?</p> <p>5 MS. NELSON: What do you mean by that?</p> <p>6 THE WITNESS: New to the law of -- new I 7 guess.</p> <p>8 MR. JAFFREE: What does a neophyte mean to 9 you?</p> <p>10 MS. NELSON: Well, you asked the 11 question. What do you -- what are you 12 asking her, is she a neophyte?</p> <p>13 MR. JAFFREE: Well, is this witness unable 14 to understand what that term is?</p> <p>15 A. I am. Could you define it for me, please.</p> <p>16 Q. Some person with no knowledge, no skills, just 17 a babe in the woods as far as the subject is 18 concerned.</p> <p>19 Would you like a clearer definition?</p> <p>20 MS. NELSON: And what -- your question is 21 what? Is she -- with that -- with 22 your definition, is she a neophyte as 23 to what?</p>
<p>Page 30</p> <p>1 Q. So in First Amendment jurisprudence you should 2 be considered a neophyte?</p> <p>3 A. Yes.</p> <p>4 MS. NELSON: Object to the form.</p> <p>5 THE WITNESS: I'm sorry, Carol Sue.</p> <p>6 MS. NELSON: I'm just objecting to form. 7 You can answer.</p> <p>8 A. Yes, I would be a neophyte because I've never 9 dealt with it.</p> <p>10 Q. And in public service litigation, you should 11 be considered a neophyte?</p> <p>12 MS. NELSON: Object to the form.</p> <p>13 A. Yes. Because I don't know what public service 14 litigation is.</p> <p>15 MS. NELSON: Nor do I.</p> <p>16 Q. And civil rights litigation, you should also 17 be considered a neophyte?</p> <p>18 MS. NELSON: Object to the form. She's a 19 municipal court judge. She said 20 she -- I don't know that she ever said 21 she's a civil rights lawyer.</p> <p>22 MR. JAFFREE: Well, I'm asking her.</p> <p>23 Q. Do you know any civil rights law?</p>	<p>Page 32</p> <p>1 THE WITNESS: Civil rights. I'm sorry.</p> <p>2 MS. NELSON: Civil Rights law?</p> <p>3 MR. JAFFREE: Yeah, that's my question.</p> <p>4 MS. NELSON: What kind of Civil Rights?</p> <p>5 MR. JAFFREE: Do you want to be the 6 witness?</p> <p>7 MS. NELSON: Well, I mean, there are a lot 8 of civil rights out there. I'm trying 9 to get you -- to understand what your 10 asking her and why.</p> <p>11 Q. Title VII litigation. Would you be a neophyte 12 in Title VII litigation?</p> <p>13 A. Yes.</p> <p>14 Q. Would you be a neophyte in 1981, 1983 15 litigation?</p> <p>16 A. I hate to say I'm neophyte. I mean, I've -- 17 I've, of course, represent -- yes, I will be a 18 neophyte in that, yes.</p> <p>19 Q. All right. How did you learn about the 20 judgeship opening?</p> <p>21 A. A lady named Carol Jean Smith.</p> <p>22 Q. Who is she?</p> <p>23 A. She was an assistant attorney general in the</p>

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<p style="text-align: right;">Page 33</p> <p>1 Attorney General's office in 19 -- for several 2 years, I'm sure, but in 1998 or '99 when I 3 heard about it.</p> <p>4 Q. She told you about there was a position 5 available?</p> <p>6 A. She did.</p> <p>7 Q. Was this --</p> <p>8 A. Yes. I'm sorry.</p> <p>9 Q. What was I getting ready to ask you?</p> <p>10 A. No. They told me to say yes or no, and I said 11 she did.</p> <p>12 MS. NELSON: That's fine.</p> <p>13 Q. Okay. I thought you was anticipating my 14 question.</p> <p>15 Do you know who was in the running for 16 this position prior to you're being hired in 17 that position?</p> <p>18 A. No.</p> <p>19 Q. Was it another black female that was 20 considered as far as you know?</p> <p>21 A. As far as I know now. I didn't know then who 22 was in the running.</p> <p>23 Q. But you do know now. Do you know what her</p>	<p style="text-align: right;">Page 35</p> <p>1 her name was -- this person that works in your 2 same department told you about a job opening?</p> <p>3 A. Carol Jean Smith. Yes, she did. She wasn't 4 in my department. But, yes, she did tell me 5 about the --</p> <p>6 Q. And then you applied for it?</p> <p>7 A. I did.</p> <p>8 Q. How?</p> <p>9 A. I don't remember. When you say "how," I 10 think -- I assume I sent a resume. I don't 11 remember. I really don't. I've thought about 12 it several times, and I don't remember.</p> <p>13 Q. In response to my request for production, did 14 you have to look back through your documents 15 and see if you sent a resume or an application 16 or anything?</p> <p>17 A. I mean, I don't -- I don't know. I don't -- I 18 wouldn't have kept it. If I sent them a 19 resume, I would have just sent them a standard 20 copy of my resume at the time and a cover 21 letter.</p> <p>22 Q. So you don't know how the City learned about 23 your interest in the job?</p>
<p style="text-align: right;">Page 34</p> <p>1 name was?</p> <p>2 A. Yes.</p> <p>3 Q. What's her name?</p> <p>4 A. Kalia Lane.</p> <p>5 Q. Kalia Lane?</p> <p>6 A. Yes.</p> <p>7 Q. And she was considered for the position?</p> <p>8 A. That's my understanding.</p> <p>9 Q. Now, did you learn about it at the time she 10 was being considered or after she had been 11 rejected?</p> <p>12 MS. NELSON: She just answered that. You 13 can answer again.</p> <p>14 A. Did I -- did I learn about her?</p> <p>15 Q. Yeah. Now that you know that she was applying 16 for the position and --</p> <p>17 A. Right.</p> <p>18 Q. -- was seriously considered, at the time you 19 learned about it, was it during the time she 20 was being considered or subsequent to her 21 consideration? If you know.</p> <p>22 A. Yeah, I don't know.</p> <p>23 Q. All right. So this -- I forgot what you said</p>	<p style="text-align: right;">Page 36</p> <p>1 A. No, I don't know specifically how. I assume 2 they got my letter and my resume.</p> <p>3 Q. Okay. Well, do you know when you sent that 4 letter or resume or other document?</p> <p>5 A. No, not specific dates, I don't.</p> <p>6 Q. Is it possible that you didn't send anything?</p> <p>7 A. I don't think that's possible, but I --</p> <p>8 Q. But you don't know?</p> <p>9 MS. NELSON: I think she's asked and 10 answered.</p> <p>11 A. Yeah. I don't think -- how would they know me 12 if I didn't send a resume?</p> <p>13 Q. Well, you could have sent a letter.</p> <p>14 A. Well, you said that I didn't send anything. 15 So no, I don't think that's possible.</p> <p>16 Q. You could have made a phone call.</p> <p>17 A. No, I don't think that's possible.</p> <p>18 Q. Somebody could have selected you as opposed to 19 you selecting them?</p> <p>20 MS. NELSON: Object to the form. Is that 21 a question?</p> <p>22 MR. JAFFREE: She asked me a question. 23 I'm responding. I'm giving her</p>

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<p style="text-align: right;">Page 37</p> <p>1 hypotheticals. 2 A. I don't know how they would know me. I didn't 3 live here. 4 Q. Okay. Well, so somehow you submitted 5 something -- 6 A. Right. 7 Q. -- I guess for they -- 8 A. I know I did. I don't know what. 9 Q. -- learned about you somehow. 10 And then what happened? 11 A. I was interviewed and -- 12 Q. I mean, you submitted something; you was 13 interviewed. Did anybody contact you? 14 A. Yes, somebody contacted me, I'm sure. 15 Q. Who contacted you? 16 A. I don't remember. 17 Q. Was it a male, female? 18 A. I don't remember. 19 Q. Was it the mayor of the city? 20 A. I don't remember who contacted me to meet. 21 Q. Or was it somebody who was in a position to 22 contact you and talk to you about this 23 position?</p>	<p style="text-align: right;">Page 39</p> <p>1 has been asking my clients. I try to avoid 2 some of the preliminary stuff. 3 But are you on any medication that would 4 affect your memory? 5 A. Not that I'm aware. 6 Q. Do you have any disability that would affect 7 your memory? 8 A. Age. 9 Q. Or affect your ability to answer truthfully to 10 the questions I'm going to ask you? 11 A. Age is the only thing. 12 Q. Are you on any kind of drugs or alcohol or 13 anything would affect your answering 14 truthfully to the questions I'm going to ask 15 you? 16 A. No. 17 Q. So other than age, you don't think there's 18 anything else that would affect your memory 19 that would cause you not to be able to respond 20 to the questions I'm going to ask you? 21 A. Stress. 22 Q. Are you under stress, now? 23 A. Yes.</p>
<p style="text-align: right;">Page 38</p> <p>1 MS. NELSON: She said she didn't remember. 2 A. Yeah, I don't remember who I -- I really don't 3 remember who I talked to. 4 MR. JAFFREE: Well, maybe she remember the 5 status of the person. 6 Q. Or somebody contacted you? 7 A. I don't remember them so I can't remember 8 their status. Somebody contacted -- 9 Q. You're quite sure that it wasn't a maintenance 10 worker that contacted you? 11 A. I don't know. 12 Q. All right. Well, what did they tell you when 13 they contacted you? 14 A. I don't remember. I -- I don't remember. I 15 mean, I just assume it's just set up an 16 interview, like when you apply for a job and 17 people call and say, we have you scheduled for 18 interview. 19 Q. Do you generally have difficulty with your 20 memory? 21 MR. JAFFREE: Object to the form. 22 A. Yes, as I get older, Mr. Jaffree. 23 Q. Let me ask you the question that your counsel</p>	<p style="text-align: right;">Page 40</p> <p>1 Q. Why are you under stress? 2 A. Because I don't understand your questions. 3 Q. Okay. I'm sorry. Well, I'm probably older 4 than you. 5 Anyway, so somebody called you. And did 6 they ask you to come in for an interview? 7 A. Yes. 8 Q. And do you remember when you came in for the 9 interview? 10 A. Not the specific date, no, sir, I don't. 11 Q. Do you remember what month it was? 12 A. No, sir, I don't. 13 Q. Do you remember what year it was? 14 A. 1999. 15 Q. Good. Now, do you remember what season of the 16 year it was? 17 A. No, sir, I don't. 18 Q. Spring, fall, winter? 19 A. I feel bad, but I really don't. 20 Q. Let me see if I can help you. You think you 21 may have started sometime in November of 1999. 22 A. Right. Yes. 23 Q. How many months was it before you started?</p>

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<p style="text-align: right;">Page 41</p> <p>1 A. That what?</p> <p>2 Q. That you came in for an interview.</p> <p>3 A. How many months before? I mean, if -- if I 4 say two or three, I would be lying because 5 I -- I mean, I wouldn't be lying. I don't 6 know.</p> <p>7 Q. I'm not going to consider you're lying. 8 MS. NELSON: If you remember.</p> <p>9 Q. Give me your best guess.</p> <p>10 A. I don't remember. I -- I sent in a resume. 11 They called me and said you have an 12 interview. And I came.</p> <p>13 Q. All right. Do you remember who you 14 interviewed before?</p> <p>15 A. I interviewed -- no. I interviewed -- no. 16 Now, I can tell you, they were employees of 17 the City of Dothan. I don't specifically 18 remember who they were now, like, you know --</p> <p>19 Q. Do you know how long the interview process 20 took?</p> <p>21 A. The entire interview process or each 22 interview?</p> <p>23 Q. How many interviews did you submit to?</p>	<p style="text-align: right;">Page 43</p> <p>1 the second interview committee or the same people or --</p> <p>2 A. I think it was a combination of people that I 3 had met and maybe some new people that --</p> <p>5 Q. How many --</p> <p>6 A. I don't remember.</p> <p>7 Q. How many on the second interview committee, 8 any idea?</p> <p>9 A. I saw three or four people.</p> <p>10 Q. Did they ask you any different questions?</p> <p>11 A. No. And in fact --</p> <p>12 Q. Same questions?</p> <p>13 A. Well, yeah. I think that some of the people 14 that I met the second time, I had not met in 15 the first interview. So I'm sure we did go 16 back over the -- and the all questions were 17 about my resume and why did I want the job and 18 that type stuff.</p> <p>19 Q. Did you think you submitted to a third 20 interview?</p> <p>21 A. Yes, I do.</p> <p>22 Q. And how long was that after the second 23 interview?</p>
<p style="text-align: right;">Page 42</p> <p>1 A. I think about three.</p> <p>2 Q. Well, what about the first one, any idea how 3 long it took?</p> <p>4 A. No idea how long it took.</p> <p>5 Q. Any idea what questions they asked you?</p> <p>6 A. They asked -- they had my resume. They asked 7 me about stuff that was on my resume, and they 8 just asked me questions about my legal 9 experience and, you know, what I -- why did I 10 want the job.</p> <p>11 Q. But did you tell them that you were a neophyte 12 in municipal law?</p> <p>13 A. I don't remember.</p> <p>14 Q. How many of these people that you don't 15 remember were there that were asking you the 16 questions on the first interview?</p> <p>17 A. Approximately three or four.</p> <p>18 Q. Okay. How long after the first interview did 19 you submit to a second interview?</p> <p>20 A. Very shortly thereafter, within a matter of 21 weeks. I don't -- no, I don't remember 22 specifically.</p> <p>23 Q. Do you remember, was it different people on</p>	<p style="text-align: right;">Page 44</p> <p>1 A. Very shortly thereafter. I mean, it -- they 2 all went very quickly.</p> <p>3 Q. So all three of the interviews were very close 4 together, compressed?</p> <p>5 A. Yes.</p> <p>6 Q. To the best of your recollection?</p> <p>7 A. Yes. Thank you.</p> <p>8 Q. And do you remember who it was that 9 administered the third interview?</p> <p>10 A. MS. NELSON: Object to the form. 11 "Administered?"</p> <p>12 Q. Do you understand what I mean by administered? 13 It's not a term of art. If it will be 14 helpful, I will say, who participated in the 15 third? I'm not trying to use words to trick 16 you. Who participated in the third 17 interview?</p> <p>18 A. Me and about three or four other people.</p> <p>19 Q. Same people?</p> <p>20 A. I don't remember.</p> <p>21 Q. Same questions?</p> <p>22 A. I think so.</p> <p>23 Q. So pretty much three times you submitted to</p>

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<p style="text-align: right;">Page 45</p> <p>1 interviews, it was some of the same people and 2 they kept repeating the questions that they 3 asked you?</p> <p>4 A. To the best of my memory.</p> <p>5 Q. Does that seem odd to you?</p> <p>6 A. No.</p> <p>7 Q. Does it seem redundant?</p> <p>8 A. No. I mean, all --</p> <p>9 Q. Does that seem meaningless?</p> <p>10 A. -- basically the same thing. No.</p> <p>11 Q. Well, when did you discover that you had the 12 position?</p> <p>13 A. When somebody called me or sent me a letter.</p> <p>14 I don't -- I mean, I was notified that I had</p> <p>15 it -- that I had it. I don't remember how.</p> <p>16 Q. All right. Let me shift gears here, and I'll 17 get back to that, because I don't want to go 18 too far afield before I -- let me see if I 19 could give the court reporter more work to do.</p> <p>20 MR. JAFFREE: And I'm apologizing on the</p> <p>21 Record for the lack of professionalism</p> <p>22 in my Notice of a Deposition. When</p> <p>23 you're rushing and doing three things</p>	<p style="text-align: right;">Page 47</p> <p>1 But, you know, I do have documents</p> <p>2 that she was able to locate that you</p> <p>3 asked for that was -- but they're not</p> <p>4 otherwise objectionable. But with</p> <p>5 that, we'll go forward.</p> <p>6 Q. Was there a reason you didn't bring with you 7 this memo dated December the 1st from 8 Lieutenant Garrett?</p> <p>9 A. We couldn't find one.</p> <p>10 Q. You couldn't find one?</p> <p>11 A. No.</p> <p>12 Q. Did you contact Lieutenant Garrett and ask him 13 if he had a copy of his memo?</p> <p>14 A. No.</p> <p>15 Q. Did you contact Captain John Gardner --</p> <p>16 MS. BRACKIN: Givens.</p> <p>17 MR. JAFFREE: Givens? It's not Gardner?</p> <p>18 MS. BRACKIN: Captain Givens.</p> <p>19 Q. It that the reason because there was no letter 20 to John Gardner?</p> <p>21 A. We couldn't find a memo from Lieutenant Cliff</p> <p>22 Garrett to a Captain John Gordon -- Gardner.</p> <p>23 Q. So it may have been a misprint on a name</p>
<p style="text-align: right;">Page 46</p> <p>1 at the same time and don't have a 2 secretary, sometimes you have to 3 improvise and compromise on your time. 4 But anyway, be that as it may.</p> <p>5 Q. Did anyone give you a copy or tell you about a 6 notice of this deposition?</p> <p>7 A. Yes. Why?</p> <p>8 Q. And did they indicate that there was a series 9 of documents that you were supposed to bring 10 with you?</p> <p>11 A. Yes.</p> <p>12 Q. Well, let's go over them. Number one on this 13 notice was a memo dated somewhere around 14 December the 1st from Lieutenant Cliff 15 Garrett. Did you bring that?</p> <p>16 A. No.</p> <p>17 MS. NELSON: If I could state for the</p> <p>18 Record, you did send me an e-mail</p> <p>19 notice. I did provide it to the</p> <p>20 judge, ask her to look for these</p> <p>21 documents. I did want to serve you</p> <p>22 with just some general objections.</p> <p>23 But you can ask her about each one.</p>	<p style="text-align: right;">Page 48</p> <p>1 there. Okay. 2 What about letters sent to you by Fran 3 Bailey when she resigned?</p> <p>4 A. I didn't -- I didn't have one.</p> <p>5 Q. Do you remember Nancy discussing that letter 6 yesterday during her deposition? Nancy said 7 she looked at it and Ms. Bailey shared her a 8 copy?</p> <p>9 MS. NELSON: There was one in her</p> <p>10 personnel file that I produced to you,</p> <p>11 but I don't know that Judge Gordon had</p> <p>12 a copy of it.</p> <p>13 Q. You want to look at it, Judge? 14 (Witness looked at document.)</p> <p>15 Q. Did you -- did you have a copy of this letter 16 that she said that she addressed to Nancy 17 concerning her resignation plans?</p> <p>18 A. No.</p> <p>19 Q. Well, if Nancy testified yesterday that 20 Ms. Bailey said part of the reason why she was 21 resigning was because of the disparate 22 treatment between magistrates, would you be in 23 a position to dispute that testimony?</p>

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<p style="text-align: right;">Page 49</p> <p>1 MS. NELSON: Object to the form. And I 2 don't believe that was her testimony. 3 But you can answer.</p> <p>Q. Well, if that was her testimony, would you be in a position to dispute that?</p> <p>6 A. Do I dispute it? Is that your question?</p> <p>Q. Yeah.</p> <p>8 A. Would I be in a position to --</p> <p>Q. One of the reasons that Fran Bailey indicated that she was resigning was because of disparate treatment that she was --</p> <p>12 A. That she was subjected to, or somebody else was subjected to?</p> <p>Q. Well, that she experienced?</p> <p>15 MS. NELSON: Object to the form.</p> <p>16 A. That I treated her differently than another similarly situated typist clerk?</p> <p>Q. No. The disparate treatment of magistrates?</p> <p>19 A. She wasn't a magistrate.</p> <p>Q. Well, maybe she observed magistrates?</p> <p>21 A. I don't --</p> <p>Q. Was she in a position to observe magistrate treatment?</p>	<p style="text-align: right;">Page 51</p> <p>1 differently.</p> <p>2 MR. JAFFREE: Is this the defendants' 3 response to request number two? Is 4 that submitted as defendants' 5 response?</p> <p>6 MS. NELSON: Well, you asked for a letter 7 sent to Judge Gordon by Fran Bailey 8 and -- upon her resignation. And to 9 my knowledge, that is a letter to 10 Judge Gordon.</p> <p>11 MR. JAFFREE: Can you mark this as 12 Plaintiffs' Exhibit 1? I guess I 13 should mark it, shouldn't I?</p> <p>14 MS. NELSON: I think it will go faster if 15 you marked it. (Plaintiffs' Exhibit 1 was marked 16 for identification.)</p> <p>18 MR. JAFFREE: And at least for the Record, 19 Plaintiffs' Exhibit 1 is a letter 20 dated July 15th, '07, from Fran Bailey 21 to Defendant Judge Gordon.</p> <p>22 Q. Item number three, I asked for, was all memos issued by you to the Judicial Department</p>
<p style="text-align: right;">Page 50</p> <p>1 A. I don't -- I don't -- she was a clerk typist. 2 She was a file clerk.</p> <p>Q. And my question, was she in a position to observe magistrates?</p> <p>5 A. Physically or assigned to a position or --</p> <p>Q. Well, I mean, did she work along with them; did they work in the same physical --</p> <p>8 A. Location?</p> <p>Q. -- place?</p> <p>10 A. Yes.</p> <p>Q. Were they working in close proximity to each other?</p> <p>13 A. They were all in the same office.</p> <p>Q. Could they observe each other on a regular basis?</p> <p>16 A. Yes.</p> <p>Q. Okay. So you think that Ms. Bailey may not have been in a position to observe magistrates being treated differently?</p> <p>20 MS. NELSON: Object to the form.</p> <p>21 A. I do -- yes. I do object to that or dispute that she could observe them treating differently because I didn't treat them</p>	<p style="text-align: right;">Page 52</p> <p>1 and/or staff during the period of April the 2 1st, 2001, until December the 31st, 2005. 3 Did you produce the memos that were 4 sent to -- well, were there any missing, memos 5 that you could have --</p> <p>6 MS. NELSON: Well, I'm about to provide to 7 you --</p> <p>8 MR. JAFFREE: Well, while you were doing 9 that, I was just trying to ask this 10 witness --</p> <p>11 MS. NELSON: Oh, excuse me.</p> <p>12 MR. JAFFREE: -- if she recalls whether or 13 not some was missing from the group 14 that's she's given me.</p> <p>15 A. Not specifically.</p> <p>16 MS. NELSON: I'll object to the form. 17 Missing from what? You don't even 18 know what's she's giving you.</p> <p>19 MR. JAFFREE: Well, I'm asking her, is the 20 memo -- what she's giving me complete, 21 or if there's some memos that she 22 issued to the staff that she don't 23 have anymore.</p>

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1 MS. NELSON: And how do you -- you're 2 assuming -- 3 MR. JAFFREE: I'm not assuming anything. 4 I'm asking. I mean, maybe she would 5 know that there are some memos that 6 somehow got destroyed or that she 7 can't find or don't have. I'm asking 8 her the question. I mean, she's 9 competent to the extent that she knows 10 whether or not any of the memos that 11 she issued to the staff are not 12 included in this group she's giving 13 me.	1 diligent and doing a very good job in helping 2 you. But if I could get a response to my 3 question: 4 Are you aware of any memos that you have 5 submitted to the staff that's not included 6 with this group that you've given me?
14 Q. You are competent to answer that, aren't you? 15 MS. NELSON: Well, and I'm -- and if I 16 could just state for the Record, some 17 memos have been provided in the 18 documents I've previously given to 19 you. I mean, she made search of 20 other -- 21 MR. JAFFREE: Not many. 22 MS. NELSON: -- memos but -- 23 MR. JAFFREE: I mean, those boxes of	7 A. No. 8 Q. Okay. 9 (Plaintiffs' Exhibit 2 was marked 10 for identification.) 11 Q. So now, in item number four, I asked for a 12 series of documents. And I may have asked for 13 these same documents in our request for 14 production. If I can get to item number four 15 since we're talking about request for 16 production, Judge Gordon, were you aware that 17 on or about December the 25th, I forwarded to 18 your attorney a request for production of 19 documents? 20 MS. NELSON: I'm not sure what you're 21 showing her. 22 (Brief pause) 23 MS. NELSON: You're showing her a request
Page 54	Page 56
1 documents that took me forever to go 2 through doesn't have very many memos. 3 MS. NELSON: Well, within personnel files, 4 there are memos. There are memos. I 5 mean, she made a diligent search of 6 memos that she could locate or could 7 be located. Now, whether it covers 8 every -- 9 MR. JAFFREE: Can I get her to testify to 10 that? 11 MS. NELSON: You can. If you're asking -- 12 MR. JAFFREE: I mean, your attorney is 13 trying -- 14 MS. NELSON: -- it a way that assumes 15 she -- 16 MR. JAFFREE: I have so many -- I have to 17 admire your attorney. 18 (Court reporter interrupted for 19 clarification.) 20 MR. JAFFREE: We're ignoring your 21 difficulty, and I apologize for that, 22 at least on my part. 23 Q. I appreciate your attorney trying to be very	1 of documents propounded to the 2 Defendant City of Dothan? 3 MR. JAFFREE: Yes. I'm asking her, was 4 she aware that I propounded a request 5 for those documents. 6 MS. NELSON: Again, I don't know. It's to 7 the City. I don't know if she -- do 8 you know? 9 MR. JAFFREE: I'm -- 10 MS. NELSON: Yeah. 11 Q. The City doesn't have any fingers and arms, so 12 the City asked somebody. So I'm going to ask 13 you some questions about that. 14 MS. NELSON: Well, number one, I don't 15 know -- you didn't get an answer from 16 her if she was aware that that had 17 been propounded to the City. 18 Q. Well, were you? 19 A. No. 20 Q. You never saw that document before? 21 A. No. 22 Q. Do you know from your own knowledge who with 23 the City responded to that?

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<p style="text-align: right;">Page 57</p> <p>1 A. No.</p> <p>2 Q. I know they responded through the attorney.</p> <p>3 Well, do you know who the appointed authority</p> <p>4 is for the magistrates' office?</p> <p>5 A. Point of authority for the --</p> <p>6 Q. The appointing authority. Who is the</p> <p>7 appointing authority for the magistrates'</p> <p>8 office?</p> <p>9 A. I don't understand the question.</p> <p>10 MS. NELSON: The appointing authority?</p> <p>11 MR. JAFFREE: Yeah, the appointing</p> <p>12 authority.</p> <p>13 Q. Are you familiar with that term, "appointing</p> <p>14 authority?"</p> <p>15 A. Magistrates aren't appointed. They're</p> <p>16 employed.</p> <p>17 Q. Who is the appointing authority? Are you the</p> <p>18 appointing authority? Is that a title you</p> <p>19 occupy, appointing authority?</p> <p>20 A. No.</p> <p>21 Q. You don't occupy that title?</p> <p>22 A. I don't -- we don't appoint magistrates.</p> <p>23 They're employed. It's not an appointment.</p>	<p style="text-align: right;">Page 59</p> <p>1 Q. Yeah.</p> <p>2 A. "The appointing authority may discharge an</p> <p>3 employee in the classified service whenever he</p> <p>4 considers the good of the service and the</p> <p>5 welfare of the City will be best served,</p> <p>6 thereby, by making" --</p> <p>7 Q. Can you stop right there?</p> <p>8 A. I didn't finish the sentence.</p> <p>9 Q. Well, go ahead. I'm sorry.</p> <p>10 A. "Thereby, by making and filing in his office</p> <p>11 an order to that effect, together with the</p> <p>12 reason defined for the discharge. However,</p> <p>13 the power to discharge shall not be</p> <p>14 capriciously or arbitrarily exercised in any</p> <p>15 case."</p> <p>16 Q. Okay. Can you stop now, or are you still</p> <p>17 reading the sentence?</p> <p>18 A. Well, you asked me to read the first sentence</p> <p>19 and --</p> <p>20 Q. Well, I'm --</p> <p>21 A. -- I've not finished the sentence.</p> <p>22 Q. But I'm empowering you to not have to read the</p> <p>23 whole sentence?</p>
<p style="text-align: right;">Page 58</p> <p>1 Q. Do the personnel rules refer to an appointing</p> <p>2 authority?</p> <p>3 MS. NELSON: If you know.</p> <p>4 A. I don't know. I don't know if -- if the</p> <p>5 personnel rules refer to an appointing</p> <p>6 authority, no.</p> <p>7 Q. You don't.</p> <p>8 (Brief pause)</p> <p>9 Q. Are you're familiar with the City of Dothan</p> <p>10 Civil Service Act?</p> <p>11 A. No.</p> <p>12 Q. Huh?</p> <p>13 A. No.</p> <p>14 Q. You're not familiar with this Civil Service</p> <p>15 Act?</p> <p>16 A. No. I mean, I'm familiar with the name, Civil</p> <p>17 Service Act, but not the -- what it -- I'm not</p> <p>18 familiar with the specifics of the City of</p> <p>19 Dothan's Civil Service Act.</p> <p>20 Q. Let me show you what it says about Section 21</p> <p>21 of the Civil Service Act. And can you read</p> <p>22 the first sentence of that section?</p> <p>23 A. First sentence of Section 21, Discharges?</p>	<p style="text-align: right;">Page 60</p> <p>1 A. Okay.</p> <p>2 Q. Okay? Now, if I could have the document</p> <p>3 back.</p> <p>4 MS. NELSON: Can I see just what you're</p> <p>5 showing her here?</p> <p>6 (Brief recess)</p> <p>7 MR. JAFFREE: I don't have time for</p> <p>8 counsel to read the whole document.</p> <p>9 MS. NELSON: Well, I mean, you're showing</p> <p>10 her a document that I'm not sure what</p> <p>11 is. It says Civil Service Act, but I</p> <p>12 have no idea if it's --</p> <p>13 MR. JAFFREE: Are you not familiar with</p> <p>14 that act --</p> <p>15 MS. NELSON: Well, I don't know if --</p> <p>16 MR. JAFFREE: -- that's been part of this</p> <p>17 case the whole time?</p> <p>18 MS. NELSON: I don't know that you've ever</p> <p>19 asked me to produce it. I don't know</p> <p>20 if this is the one -- if this is the</p> <p>21 most current one.</p> <p>22 MR. JAFFREE: Well, I mean, sanction me --</p> <p>23 MS. NELSON: Or the one in effect nor or</p>

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<p style="text-align: center;">Page 61</p> <p>1 at the time. 2 MR. JAFFREE: Well, sanction me if somehow 3 I'm misleading -- giving people wrong 4 information. 5 MS. NELSON: Well, I have a right to look 6 to see what you're showing her. 7 Q. But let me ask you this: Having read that, 8 are you now familiar with the term "appointing 9 authority?" 10 A. No. 11 Q. You're still not familiar with that term? 12 A. I -- I didn't read it in context. 13 Q. Well, are you familiar with Ms. Mary Brackin? 14 A. Familiar? 15 Q. Are you familiar with Ms. Mary Brackin, the 16 plaintiff here next to me? 17 A. No. 18 Q. Excuse me. You didn't mean to say no. Do you 19 know Mary Brackin, the plaintiff, next to me? 20 A. Do I know her? 21 Q. Have you ever heard of her? 22 A. Yes. 23 Q. Okay. And you know that she was a civil</p>	<p style="text-align: center;">Page 63</p> <p>1 Q. As we sit here now, this is the first time 2 that you realized that you was considered an 3 appointing authority? 4 A. No. In this context. I've never seen this 5 document before. 6 Q. Well, on what context did you think you was an 7 appointing authority? 8 A. I never -- I just always thought of myself as 9 a department head. If that's another term 10 for -- is appointing authority another term 11 for department head? 12 Q. Well, what do you think? 13 A. I don't know. Does it define it in here, 14 appointing authority? 15 MS. NELSON: I don't think it does. 16 Q. Well, take my -- Judge, take my word you are 17 appointing authority. 18 MS. NELSON: Take your word that she's the 19 appointing authority? 20 MR. JAFFREE: Yeah. I think there's no 21 dispute on this. 22 MS. NELSON: Well, I think -- 23 MR. JAFFREE: I think your counsel can</p>
<p style="text-align: center;">Page 62</p> <p>1 service employee in the classified service? 2 A. Yes. 3 Q. And you did have some role in bringing about 4 the termination of Ms. Brackin's employment 5 with the City of Dothan? 6 A. Yes. And her hiring. 7 Q. Pardon? 8 A. And her hiring, also. 9 Q. Well, I didn't ask you that, but thanks for 10 that information. 11 A. Okay. 12 Q. Now, this section says, appointing authority 13 is the one that should bring about the 14 discharge of a civil service employee. So in 15 that context, would you agree that you are the 16 appointing authority? 17 MS. NELSON: Object to the form. 18 A. In that context, I always thought the city 19 manager was the ultimate authority. But I'm a 20 department head and she was in my department, 21 so yes -- 22 Q. You mean, this is the first -- 23 A. -- in that context.</p>	<p style="text-align: center;">Page 64</p> <p>1 stipulate to this. 2 MS. NELSON: Well, in the act -- 3 MR. JAFFREE: Otherwise, the -- 4 MS. NELSON: -- you're showing us does 5 define the appointing authority as 6 department head, but you're just 7 picking out one -- 8 MR. JAFFREE: Well, because I didn't think 9 we was going to get stuck on that 10 word. I just thought we all knew that 11 she was appointing authority. I mean, 12 I hope we don't have to go down this 13 road for everything. 14 Q. So now let me get back to the question I was 15 asking you about appointing authority. As the 16 appointing authority, would you be in charge 17 of the magistrates' office? 18 A. Yes. As department head. 19 Q. Okay. Would these documents that I asked for 20 in my request for production be under your 21 department? 22 MS. NELSON: She doesn't even know what 23 you asked for. And many of them deal</p>

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<p style="text-align: right;">Page 65</p> <p>1 with personnel files. And no, they're 2 not in her department. 3 MR. JAFFREE: Well, can she say that, or 4 do you want change seats? 5 MS. NELSON: Well, she said she had not 6 seen this. You can take one by one 7 and ask her. 8 MR. JAFFREE: Let me -- if --</p> <p>Q. Let me ask you this: Were you made aware, either by your attorney or someone else by --</p> <p>11 MS. NELSON: And I'm going to object to 12 any discussion that she may have had 13 with her attorney. 14 MR. JAFFREE: Well, you can object to any 15 discussions. Some discussions are 16 relevant.</p> <p>Q. Were you aware from anyone that, as part of my request for production, I asked for production of resumes and applications for the employment and acceptance/rejection notices of all other associated -- and all other associated documents of persons considered for the position currently occupied by Defendant Judge</p>	<p style="text-align: right;">Page 67</p> <p>1 those documents and didn't? 2 MS. NELSON: Object to the form. 3 A. No. 4 (Brief pause) 5 Q. Number four, I asked for -- to produce the complete personnel file of Defendant Judge Gordon. That's you, correct? 6 A. Yes. 7 Q. In reference to personnel files, include application for employment, any rating system employed by the City, any term where she's placed on the list of persons eligible for consideration, and all performance evaluations and all job-related memos, notes given to her and/or prepared in reference to some aspects of her employment, personnel action notices, disciplinary notices, termination notices, promotion notices, rate of pay notices, et cetera.</p> <p>10 Now, do you -- were you -- 11 MS. NELSON: That has been produced. 12 MR. JAFFREE: Well, some of it. I don't 13 have any list of -- I don't have any</p>
<p style="text-align: right;">Page 66</p> <p>1 Gordon during the period that Defendant Gordon was considered for the position? 2 A. No, I was not aware of that. 3 Q. Do you know who I should hold responsible for that -- not giving me those documents? 4 A. No, I don't. 5 Q. So somebody else with the City was responsible for producing that information that didn't, but somebody should be held accountable, right, because I don't have these documents? 6 MS. NELSON: I objected to them, and she doesn't have those documents. 7 Q. All right. Now, I asked for the resumes of other applicants for employment and acceptance and rejection notices and all other associated documents of all persons considered for the position of municipal judge for the City of Dothan during the period that Kalia Spears Lane was considered for the position. 8 Did anybody tell you that I wanted those documents? 9 A. No. 10 Q. Do you know who is responsible for producing</p>	<p style="text-align: right;">Page 68</p> <p>1 rating system of the people that was 2 considered and placed on that list. 3 MS. NELSON: Well, we produced all we had. 4 MR. JAFFREE: Okay. Fine. 5 Q. Number five, I said, produce complete personnel files of all employees who Defendant Gordon recommended for employment termination regardless of whether or not they were actually terminated during inclusive period beginning with the date of Defendant Gordon's hire as a municipal judge up to and including the dates that these requests are being answered. 6 MS. NELSON: We have produced you every 7 magistrates' file. 8 Q. Was that production request presented to your attention? 9 A. To my -- 10 Q. To your attention, this number five? 11 A. I wouldn't have their personnel files. No. 12 Q. Your office doesn't maintain the personnel files? 13 A. No.</p>

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<p style="text-align: right;">Page 69</p> <p>1 Q. Number nine. It says, produce all written 2 documents regardless of whether these 3 documents were given to the City of Dothan 4 employees -- City of Dothan employees which 5 informed and/or referenced the informing of 6 such employees that the restrictions on 7 contacting former Magistrate Mary Turner has 8 been lifted.</p> <p>9 Did you produce those documents?</p> <p>10 MS. NELSON: I have responded to all of 11 that that was, again, given to 12 the City.</p> <p>13 MR. JAFFREE: I didn't get a response to 14 number nine.</p> <p>15 MS. NELSON: Yes, you -- well, I didn't 16 know we were going to go over this 17 today. If we can take a break and I 18 can go get my file. I did respond to 19 all of that. Do you have my 20 responses?</p> <p>21 MR. JAFFREE: For this request for 22 production? No, I don't think so. 23 You want to -- can we do this at</p>	<p style="text-align: right;">Page 71</p> <p>1 exist.</p> <p>2 Q. Let me ask you this with respect to nine. 3 MS. NELSON: She doesn't even know what 4 nine is.</p> <p>5 Q. All right. Look at nine. 6 MS. NELSON: Well, let me look at it 7 first. Again, I'd like to have my 8 objections in front of me.</p> <p>9 MR. JAFFREE: Well, I'll suspend this, and 10 we'll resume this at lunchtime when 11 you have your objections. Okay?</p> <p>12 MS. NELSON: To my knowledge, we have 13 answered that.</p> <p>14 MR. JAFFREE: Well, let me ask the judge 15 about this.</p> <p>16 Q. Did you submit a letter telling people that 17 the restrictions for contacting Ms. Turner had 18 been lifted? 19 MS. NELSON: No. You're just -- without 20 any context.</p> <p>21 Q. Do you need context for that, Judge? 22 MS. NELSON: I would like to have the 23 benefit of my responses but -- which</p>
<p style="text-align: right;">Page 70</p> <p>1 lunchtime; you get your files and 2 we'll talk about this?</p> <p>3 MS. NELSON: Well, it's just ridiculous to 4 go over this witness -- you're reading 5 document requests which were 6 propounded to the City, which I have 7 either answered or filed objections. 8 And I couldn't even hear -- understand 9 what you were asking her.</p> <p>10 MR. JAFFREE: Here's my problem. I just 11 got these documents, I think, last 12 Friday. And it took me until Sunday 13 night to finish them. And all kind of 14 documents are missing. And I'm trying 15 to see if this witness have these 16 documents. I mean these 17 are -- well --</p> <p>18 MS. NELSON: I don't understand. You say 19 documents are missing. They've either 20 been produced or objected to or don't 21 exist. I mean, you may be asking --</p> <p>22 MR. JAFFREE: Well, I'm going to find out 23 from this witness whether or not they</p>	<p style="text-align: right;">Page 72</p> <p>1 you're not --</p> <p>2 MR. JAFFREE: Well, I've agreed to resume 3 this after lunch so you can have the 4 benefit of your responses.</p> <p>5 MS. NELSON: That's fine.</p> <p>6 MR. JAFFREE: Okay?</p> <p>7 Q. Let me go back to this request for production 8 of documents. Did you bring with you all 9 documents pertaining to Crystal Gray?</p> <p>10 MS. NELSON: We do. I have them here.</p> <p>11 Q. Emmanuel Hooker?</p> <p>12 MS. NELSON: We do.</p> <p>13 Q. Michael McCord? There's two Michael McCords, 14 one B. and one D.</p> <p>15 MS. NELSON: We brought all dealing with 16 Michael McCord that we had -- Michael 17 D. McCord.</p> <p>18 MR. JAFFREE: Well, I also asked for 19 Michael B. McCord.</p> <p>20 MS. NELSON: There were none.</p> <p>21 Q. Do you know what happened to the documents 22 dealing with Michael B. McCord?</p> <p>23 MS. NELSON: There were none.</p>

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<p style="text-align: right;">Page 73</p> <p>1 MR. JAFFREE: What do mean, "there were 2 none?" 3 MS. NELSON: I'm telling you, there were 4 none. There are no documents. 5 MR. JAFFREE: Okay. 6 Q. What about Albert Christopher Walker? 7 MS. NELSON: I have objected, and I would 8 ask that we strike and seal his name. 9 He is youthful offender status, and 10 we're not going to produce or discuss 11 him. And I've asked that -- 12 MR. JAFFREE: Well, excuse me. But this 13 is one that we claim that somebody 14 caused arrest of I believe. 15 MS. NELSON: I don't care. He's youthful 16 offender. 17 MR. JAFFREE: And shouldn't have been. 18 Are you going to stipulate that there 19 was a wrongful arrest of this 20 individual? 21 MS. NELSON: No, I am not. 22 MR. JAFFREE: Then I would like to see his 23 file.</p>	<p style="text-align: right;">Page 75</p> <p>1 Thomas Blunt. 2 Q. Okay. And John Powe? 3 MR. JAFFREE: I think y'all submitted some 4 Powe file. 5 MS. NELSON: We have submitted a Powe 6 file. I think it was Ronald Powe. 7 Q. Okay. Now, number five. All documents 8 received by Judge Gordon and/or anyone acting 9 on -- on or for her behalf from each of the 10 Dothan city police officers who questioned, 11 interviewed staff concerning any matter that 12 Ms. Brackin was disciplined about or otherwise 13 Ms. Brackin was question by a Dothan police 14 officer while she was a Dothan city employee. 15 MS. NELSON: We have produced all of that 16 previously. 17 MR. JAFFREE: Is that from the production 18 that you gave me, that -- 19 MS. NELSON: Yes. 20 MR. JAFFREE: -- document? 21 Q. I asked for your Attachment 1, 2, and 3. 22 MS. NELSON: We have produced that. 23 MR. JAFFREE: You produced that</p>
<p style="text-align: right;">Page 74</p> <p>1 MS. NELSON: Well, I'm sorry. I've 2 objected, and you'll have to take it 3 up with the judge. 4 Q. All right. What about Shaun McGhee? 5 MS. NELSON: Shaun McGhee is a public 6 defender. 7 MR. JAFFREE: And your point is what? 8 MS. NELSON: And we're not producing all 9 files on a public -- all files on a 10 public defender. No. 11 Q. All right. Otha Lee June? 12 MS. NELSON: There is no -- we could not 13 find an Otha Lee June. 14 Q. What about Mark Cromer? 15 MS. NELSON: Yes, we have Mark Cromer. 16 Q. And Christopher Cndl? 17 MS. NELSON: We could not locate a 18 Christopher Cndl, C-A-N-D-L. 19 MR. JAFFREE: Could you locate anyone with 20 a name similar to that? You don't 21 have to answer that. 22 Q. What about Thomas Blunt? 23 MS. NELSON: Could not locate any files on</p>	<p style="text-align: right;">Page 76</p> <p>1 previously? 2 MS. NELSON: Yes. 3 Q. Okay. Copies of the Dothan Personnel Rules 4 and Regulations that were in effect during the 5 employment of the plaintiffs. 6 MR. JAFFREE: Now, you question whether or 7 not the rules that I gave was correct. 8 MS. NELSON: Well, that was the Civil 9 Service Act. I did make a -- I do 10 have a copy. The personnel department 11 is the person who has custody and 12 control of these rules and 13 regulations. Judge Gordon doesn't. 14 But I will provide you a copy of 15 that. I believe your witnesses have 16 testified -- your plaintiffs have 17 testified that they have that -- had 18 those. 19 MR. JAFFREE: Well, I'm not sure they 20 testified that they had them still 21 with them. 22 MS. NELSON: Okay. 23 MR. JAFFREE: You have that?</p>

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1	MS. NELSON: Yes, sir, we do.	1	Nancy had given to me probably two
2	MR. JAFFREE: Let me do this. Can you --	2	years ago.
3	let me go back, and I should have did	3	MS. NELSON: Well, if you found stuff --
4	this -- number four, to the extent you	4	let me say this: If you're going to
5	have documents to number four, can I	5	use stuff that she gave to you that I
6	bundle them and call -- mark them as	6	didn't get to question her about, I'm
7	Plaintiffs' Exhibit 3?	7	going to keep her deposition open to
8	MS. NELSON: You can.	8	reserve the right to question her.
9	(Brief pause)	9	MR. JAFFREE: Well, you can question her
10	MR. JAFFREE: You said you had the rules;	10	about this, but this is -- you want to
11	that's number seven?	11	look at this? And this is the thing
12	MS. NELSON: You're marking those?	12	that you said you couldn't find.
13	MR. JAFFREE: Yeah.	13	MS. NELSON: Well, it looks like we
14	MS. NELSON: What number?	14	probably couldn't find it because she
15	MR. JAFFREE: Number 4. Number 3 was	15	took it with her.
16	this -- these defendants to the extent	16	MR. JAFFREE: No, she did not. That's her
17	that you produced them.	17	copy. Several people had a copy of
18	Q. What about number eight, Judge Gordon's	18	that if you notice.
19	January the 8th public relations memo sent to	19	MS. NELSON: Well, it's interesting that I
20	the staff?	20	asked her for any documents that she
21	MS. NELSON: That's been produced in	21	had to support her claim and --
22	previous documents.	22	MR. JAFFREE: Well, she -- hold up.
23	MR. JAFFREE: I'm not sure I've seen	23	MS. NELSON: I've made it clear --
		Page 78	Page 80
1	that. You mean that pile of	1	MR. JAFFREE: I forgot that I had that.
2	documents? I'm sure I saw that. Do	2	MS. NELSON: Well, I reserve the right
3	you have another copy of it?	3	to --
4	MS. NELSON: Not with me. I'm pretty sure	4	MR. JAFFREE: Because I've got -- I mean
5	it's attached to --	5	there's a whole "googobs" of stuff in
6	MR. JAFFREE: I'm going to --	6	this case. And when I was going
7	MS. NELSON: I know it's attached to one	7	through this stuff last night --
8	of Ms. --	8	because I'd asked Nancy if she had
9	MR. JAFFREE: I'm going to --	9	that document because I thought I saw
10	MS. NELSON: -- Brackin's disciplinary	10	it once. And she didn't have it. And
11	actions.	11	she remembered the date. And I had
12	MR. JAFFREE: All right. Okay.	12	it.
13	Q. Number nine, Judge Gordon's March the 17th	13	MS. NELSON: Well, you have it, and looks
14	letter concerning no contact with Ms. Turner.	14	like it's an original with original
15	MS. NELSON: That's also been produced.	15	signatures. All I can tell you --
16	Q. What about A-Advantage Bonding, Inc., April	16	MR. JAFFREE: Well, it's original to
17	the 6th, 2004 letter?	17	Nancy.
18	MS. NELSON: We could not find any such	18	MS. NELSON: But we made an attempt -- an
19	letter.	19	effort to find this and did not have
20	MR. JAFFREE: You couldn't find any such	20	it. And she should've produced this
21	letter?	21	yesterday and --
22	MS. NELSON: Correct.	22	MR. JAFFREE: There was no intent to --
23	MR. JAFFREE: I found some stuff that	23	because we was clear on existence of

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1 that document, and several people had 2 copies of it. 3 MS. NELSON: Well, you don't know that. 4 It has that several people are listed 5 on here, but you have no evidence 6 anybody else had a copy of it. 7 MR. JAFFREE: You want to let the judge 8 see it to see if she'd recognize that 9 document? 10 MS. NELSON: Sure. I mean, that's your 11 right to ask her about it. Are you 12 marking this or -- 13 MR. JAFFREE: Well, I will since y'all 14 couldn't find your copy. And you 15 claimed you didn't -- 16 MS. NELSON: I don't have a copy. 17 MR. JAFFREE: Well, okay. Fine. 18 (Brief pause) 19 MR. JAFFREE: If we could have somebody 20 make a copy of that, including Nancy's 21 note, I'd like to move on to these 22 other documents so that we could move 23 along. And you could -- the judge	1 Mr. Jaffree. You don't know that. 2 A. I'm trying to figure out -- 3 MR. JAFFREE: What now? 4 MS. NELSON: I didn't have a chance to 5 question her about this. You're 6 trying to testify that this is her 7 copy. 8 MR. JAFFREE: Well, I see several -- 9 copies sent to several people on the 10 document itself. 11 MS. NELSON: I know, but that doesn't mean 12 it was actually done. You're just 13 assuming that because it has -- it's 14 addressed to several people. You 15 don't have any evidence that it went 16 to all these people. 17 MR. JAFFREE: Well, I don't have any 18 evidence that it didn't. 19 MS. NELSON: That's true. And I haven't 20 had a chance to question Ms. Martin on 21 this, and so I do want to reopen her 22 deposition. Now, we can get it copied 23 and just want to point for Record that
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1 could read that at her leisure. 2 MS. NELSON: Okay. I mean -- do you -- do 3 you -- 4 THE WITNESS: I don't know what to say. 5 MS. NELSON: Well, do you -- 6 MR. JAFFREE: Well, I didn't ask you to 7 say anything. 8 MS. NELSON: -- want to make a copy and 9 move on? 10 MR. JAFFREE: Yeah. 11 MS. NELSON: Okay. 12 MR. JAFFREE: Y'all didn't have a copy of 13 that. But -- okay. 14 Q. What about number eleven? 15 MR. JAFFREE: And I'm going to mark it -- 16 MS. NELSON: You want us to make a copy? 17 MR. JAFFREE: If somebody could make a 18 copy and I'm going to mark -- I'll 19 stick that to the original to mark -- 20 A. But that's the original. 21 Q. Well, that's Nancy's original. There were 22 several originals. 23 MS. NELSON: That's your testimony,	1 that is the original that was stamped 2 in by Nancy Martin. 3 MR. JAFFREE: Well, I don't know if it was 4 stamped in by Nancy Martin or stamped 5 in by somebody. 6 THE WITNESS: She signed it. 7 MS. NELSON: She signed it, it appears. 8 It had an "NM." 9 MR. JAFFREE: Yeah. 10 THE WITNESS: Can we get her back today to 11 -- 12 MR. JAFFREE: I don't know if we could get 13 her back today. 14 Q. But let me go to number 11. All written 15 reports to the personnel director concerning 16 any deficiencies in Nancy's job performance 17 during her working test period. 18 MS. NELSON: And that's been provided. 19 MR. JAFFREE: What documents are those? 20 MS. NELSON: I'm sorry? 21 MR. JAFFREE: What documents was those you 22 said had been provided? I'm talking 23 about correspondence to the personnel

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<p style="text-align: right;">Page 85</p> <p>1 director. I mean, I got three, I 2 think, documents to the personnel 3 director. Is that what you are 4 talking about? The same things that 5 were part of her attachments, 6 Attachment 1, 2, and 3. The same 7 thing was sort of reproduced and sent 8 to the personnel director. 9 MS. NELSON: That we have produced her 10 file, that we produced it in the EEOC 11 documents we produced yesterday. 12 There are multiple documents to the 13 personnel director about Nancy's 14 deficiencies. 15 MR. JAFFREE: All right. 16 Q. What about number twelve, the civil service 17 rating list for these three individuals? 18 MS. NELSON: Judge does not have that. 19 That's maintained by the personnel 20 office. 21 Q. Okay. All right. What about -- by the way, 22 Judge, did you make any attempts to get this 23 from the personnel office?</p>	<p style="text-align: right;">Page 87</p> <p>1 Do I have everything you have there? 2 MS. NELSON: Yes. 3 MR. JAFFREE: There are no other memos 4 other than what y'all have provided to 5 me? 6 MS. NELSON: Correct. 7 Q. Okay. All memos, notes, letters written by 8 Judge Gordon concerning Brackin's job 9 performance. Do I have all of that? 10 MS. NELSON: That would be in the 11 personnel file. We've produced all of 12 that. 13 Q. All memos, notes, letters received by Judge 14 Gordon concerning Plaintiff Martin's job 15 performance, anything that you received from 16 other third parties. 17 MS. NELSON: That would be in her file. 18 We've produced all that we have -- all 19 we have on Nancy Martin. 20 Q. Well, I didn't see any letters that you had 21 received from anybody else. But, okay. I got 22 all of my stuff with me. 23 All memos, letters, notes received,</p>
<p style="text-align: right;">Page 86</p> <p>1 MS. NELSON: She can't produce what she 2 does not have custody and control 3 over. 4 Q. Is that your testimony, that you couldn't get 5 access to this? 6 MS. NELSON: I'm telling you. She doesn't 7 have custody and control over ratings, 8 do you, Judge -- 9 THE WITNESS: No. 10 MS. NELSON: -- over the registers? 11 THE WITNESS: I never even see them. All 12 that's Personnel. 13 Q. Number thirteen, Judge Gordon's November and 14 December of 2003 memos to the staff regarding 15 changing cash bonds. Did you produce that? 16 A. I -- I don't even know the memos. 17 MS. NELSON: I don't know if we were -- if 18 there is a memo, we couldn't find any 19 such memo. 20 MR. JAFFREE: Couldn't find such memos for 21 number thirteen. 22 Q. All memos, notes, letters written by Judge 23 Gordon concerning Martin's job performance.</p>	<p style="text-align: right;">Page 88</p> <p>1 written by -- received -- but I'm not going to 2 hold you to number eighteen because there was 3 a repeat of a word that made that sentence not 4 legible. 5 All documents Judge Gordon submitted when 6 she applied for the position of municipal 7 judge for the City of Dothan. That's the very 8 three notes we were discussing earlier. What 9 did you submit when you applied for the 10 position? 11 MS. NELSON: And she's testified to that, 12 and we've produced her personnel 13 file. So that's all the documents we 14 have, is what we've produced. 15 MR. JAFFREE: And number 20 is the one you 16 object to, the documents submitted by 17 other applicants? 18 MS. NELSON: Correct. And, certainly, 19 Judge Gordon doesn't have that. 20 MR. JAFFREE: Well, you're doing a lot of 21 testifying for Judge Gordon. 22 MS. NELSON: Well, why would she have 23 those?</p>

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1 THE WITNESS: Well, I wouldn't have the 2 documents of other applicants. 3 MS. NELSON: Well, we're hashing out a 4 document request that I have filed 5 objections to and I'm just trying 6 to -- 7 THE WITNESS: I probably sent them to 8 Personnel if they applied. 9 MS. NELSON: You can ask her does she have 10 copies of any applications submitted 11 by anybody else that applied for her 12 job after 1999. I mean, you can ask 13 her that.	1 assuming she wears two hats. 2 Q. Do you wear two hats? 3 A. When we have a court administrator, I -- I 4 mean, we have a court administrator position 5 whose job is administrate -- I'm making that 6 word up -- the magistrates' office. But I 7 directly supervise the court administrator. 8 The court administrator supervises the 9 magistrates when we have that position 10 filled. So on a day-to-day basis, I 11 do not -- I cannot literally physically 12 supervise the magistrates' office. 13 Q. So it's your testimony when you have a person 14 functioning as the administrator of the 15 magistrates, then your only role is to 16 supervise the administrator? 17 A. Not my only role, but my primary role as far 18 as -- you know, I don't -- I'm not over there 19 day to day. The court administrator would be 20 over there. So that's not my only role. I -- 21 I sign -- that's not my only role. 22 Q. Well, what other role do you have when you 23 have a court administrator?
1 Page 90 2 was just pro forma and that you already had 3 the position? 4 A. No, not to my knowledge. 5 Q. Now, what is the scope of your administrative 6 duties when you're serving as the 7 administrator of the magistrates' office? 8 MS. NELSON: Object to the form. 9 Q. Do you understand the question? Did you 10 understand the question? 11 MS. NELSON: Are you asking what her 12 duties are? 13 Q. Yeah. The scope of your administrative -- I 14 assume you have a judicial hat and a 15 administrative hat. Your judicial hat is when 16 you're sitting on the bench as the judge and 17 you have an administrative hat when you were 18 administrating over the magistrates' 19 department, what is the scope -- 20 MS. NELSON: Object to the form. 21 Q. What is the scope of your administrative 22 duties? 23 MS. NELSON: You can ask her if she wore	1 A. Well, I'm the department head, so there are 2 certain things that only I can approve, 3 certain purchases over a certain amount, 4 travel requests. There are certain things 5 that only I can sign as a department head. 6 But the court administrator coordinates all 7 that. They just submit the paperwork to me 8 for my ultimate signature as department head, 9 but it's under their recommendation. 10 Q. Well, when you have a person serving as 11 administrator for the magistrate office, do 12 you get involved in the day-to-day activities 13 of the magistrates? 14 A. No. 15 Q. Do you get involved in the job assignments? 16 A. No. 17 Q. Do you get involved in time and attendance or 18 approving leave? 19 MS. NELSON: I'm sorry. Time and 20 attendance and what? 21 MR. JAFFREE: Approving leave. 22 A. I sign the payroll that they submit. But as 23 far as their time cards, I never see their

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<p>1 time cards. I never see what they put on 2 their time cards. I don't know if they're 3 there on a day-to-day basis or not because I'm 4 in another building. But, now, I do sign the 5 ultimate payroll that goes over to -- or comes 6 over here for them to get paid, but it's just 7 a document. I doesn't have any specifics on 8 it.</p> <p>9 Q. What is the scope of your judicial duties for 10 serving as municipal judge?</p> <p>11 A. I preside over the City of Dothan Municipal 12 Court which -- that's what I do.</p> <p>13 Q. And that consists of what? What do you do, 14 other than preside?</p> <p>15 A. That's what I do. I preside over the City of 16 Dothan's Municipal Court.</p> <p>17 Q. You couldn't break down what your job duties 18 are, other than just preside over the court?</p> <p>19 A. Well, I laugh --</p> <p>20 MS. NELSON: Tell him what you do. I 21 mean --</p> <p>22 THE WITNESS: He's been there several 23 times. He knows what I do.</p>	<p>1 Q. Is part of the reason they're separate is 2 because you're required to be an independent 3 arbiter?</p> <p>4 MR. JAFFREE: Object to the form.</p> <p>5 Q. Do you understand my question?</p> <p>6 A. I do but I don't -- no. I don't know.</p> <p>7 Q. I'm sorry?</p> <p>8 A. I don't know.</p> <p>9 Q. You don't know what?</p> <p>10 A. I don't know why the -- why they're -- I mean, 11 I guess on some level I know why. But we're 12 just separate entity just like we're a 13 separate entity from the public utilities. 14 We're a separate entity from recreation. 15 We're just two separate departments. We don't 16 have any of the same personnel in common.</p> <p>17 Q. Okay. In your capacity as municipal judge, do 18 you have to be impartial and cannot show 19 deference to the police department?</p> <p>20 A. Yes.</p> <p>21 Q. Do the city police department have any role in 22 deciding discipline for the Judicial 23 Department's employees?</p>
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<p>1 A. I mean, you do. What I --</p> <p>2 Q. I haven't been there several times.</p> <p>3 A. I mean, I -- I preside -- you've been there 4 before. I mean, I preside over the City of 5 Dothan Municipal Court. I hold court. We 6 have trials. We have arraignments. We have 7 prisoners. We do CRO revocations. We do 8 everything that a court -- everything the name 9 entitles. We have court. We have full court 10 three and a half days a week. We have 11 revocations, and we do bondsmen forfeitures 12 one day a month. We do CRO revocations. We 13 do prisoners. We do determination hearings. 14 We do probation revocation hearings. Just the 15 extent of what a municipal court does, I do.</p> <p>16 Q. Is the municipal court an adjunct of the city 17 police department?</p> <p>18 A. No.</p> <p>19 Q. Is the city police department an adjunct of 20 municipal court?</p> <p>21 A. No.</p> <p>22 Q. Are they two separate independent bodies?</p> <p>23 A. Yes. By law they have to be separate.</p>	<p>1 A. No, not ultimately.</p> <p>2 Q. Do they have any role?</p> <p>3 A. No.</p> <p>4 Q. These duties that you have as sort of the 5 super administrator of the magistrate office, 6 have these duties changed during the -- or 7 since the time Ms. Martin and Ms. Brackin were 8 employed? Or are they pretty much the same 9 now as they was then?</p> <p>10 A. I don't understand the question.</p> <p>11 Q. When you function as the -- as I call it, your 12 administrator hat being the super 13 administrator over the magistrates, the roles 14 that you just articulated that you have, did 15 you have those same roles when Ms. Martin and 16 Ms. Brackin were employed?</p> <p>17 A. Yes.</p> <p>18 Q. What percentage of your time do you think you 19 were spending on the administrative duties 20 during the tenure of Ms. Brackin and 21 Ms. Martin?</p> <p>22 MR. JAFFREE: Object to the form. They 23 were there at different times, Martin</p>

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<p style="text-align: right;">Page 97</p> <p>1 and Brackin were.</p> <p>2 Q. Well, let's first talk about Ms. Martin. What</p> <p>3 percentage of your time was spent on</p> <p>4 administrative duties during the tenure of</p> <p>5 Ms. Martin?</p> <p>6 A. I -- I have no point of reference.</p> <p>7 Q. Is the bulk of your time during her tenure</p> <p>8 spent wearing your judicial hat?</p> <p>9 A. Yes.</p> <p>10 Q. 90 percent, would you say?</p> <p>11 A. 95.</p> <p>12 Q. 95 percent.</p> <p>13 And what about during the tenure of</p> <p>14 Ms. Brackin when you had an administrator</p> <p>15 during that period of time -- when you had an</p> <p>16 administrator during the time she was</p> <p>17 working? Same 95 percent, perhaps?</p> <p>18 MS. NELSON: Object to the form.</p> <p>19 A. I spend most of my time in court. So if 95</p> <p>20 percent of my time is spent in court, yes.</p> <p>21 Q. All right. When you don't have an</p> <p>22 administrator function as the two-layer head</p> <p>23 of the magistrates, what percentage of your</p>	<p style="text-align: right;">Page 99</p> <p>1 changed as far as my duties whether or not</p> <p>2 they had an administrator. I still would</p> <p>3 ultimately, you know, have to sign the</p> <p>4 payroll, have to work out, you know, anything</p> <p>5 they had going on.</p> <p>6 Q. But didn't do any --</p> <p>7 A. I wasn't in their office, no.</p> <p>8 Q. In their office day to day?</p> <p>9 A. No.</p> <p>10 Q. So they sort of supervised themselves when</p> <p>11 they don't have an administrator?</p> <p>12 A. I guess it depends on what you mean by</p> <p>13 supervise. They all had assigned duties.</p> <p>14 Q. Okay. What is the organizational structure of</p> <p>15 the Dothan Municipal Court?</p> <p>16 A. I guess it would be presiding judge, court</p> <p>17 administrator, magistrates, clerks.</p> <p>18 Q. Okay. Do you know what the statute or</p> <p>19 ordinance is that authorized your position as</p> <p>20 a municipal judge?</p> <p>21 MS. NELSON: I'm sorry. I don't</p> <p>22 understand what you said.</p> <p>23 Q. Do you know the statute or ordinance that</p>
<p style="text-align: right;">Page 98</p> <p>1 time do you spend with the administrative</p> <p>2 function of your job?</p> <p>3 MS. NELSON: Object to the form.</p> <p>4 Q. Do you understand the question?</p> <p>5 A. Well, I'd still say about five. Whether I</p> <p>6 have an administrator or not, approximately 90</p> <p>7 to 95 percent of my time is in court, court</p> <p>8 hours, court scheduled hours. So I'd still</p> <p>9 say maybe 5 or 10 percent. I mean, I --</p> <p>10 Q. So is it safe to assume that when you don't</p> <p>11 have an administrator, the magistrates are</p> <p>12 sort of running themselves?</p> <p>13 MS. NELSON: Object to the form.</p> <p>14 Q. You understand the question?</p> <p>15 A. I wouldn't agree with that, no.</p> <p>16 Q. Well, who is supervising them when they don't</p> <p>17 have an administrator?</p> <p>18 A. I am.</p> <p>19 Q. You supervising them 5 percent of the time?</p> <p>20 A. I thought you meant over there in the office.</p> <p>21 In their office. I supervise them -- I mean,</p> <p>22 100 percent of the time they can come -- you</p> <p>23 know, I did everything I still did. Nothing</p>	<p style="text-align: right;">Page 100</p> <p>1 authorized your position as municipal judge?</p> <p>2 A. I don't know the specific statute number.</p> <p>3 Q. Well, could you tell me --</p> <p>4 A. No. I don't have an answer to that question.</p> <p>5 Q. When you have an administrator for the</p> <p>6 magistrate office, what degree of</p> <p>7 administrative discretion do you permit this</p> <p>8 person to have?</p> <p>9 MS. NELSON: In general or as any</p> <p>10 particular time?</p> <p>11 Q. Well, when you have an administrator, do you</p> <p>12 sort of allows them discretion to make</p> <p>13 decisions as to what to do?</p> <p>14 A. Yes.</p> <p>15 Q. Is that true independent of who happens to be</p> <p>16 functioning as the administrator at any</p> <p>17 particular time?</p> <p>18 A. Yes.</p> <p>19 Q. So you generally don't second guess what the</p> <p>20 administrator is trying to do?</p> <p>21 A. No.</p> <p>22 Q. In your view, any administrator that you hire,</p> <p>23 should they be an adjunct of you to do your</p>

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1 bidding? 2 MS. NELSON: Object to the form. I have 3 no idea what you're talking about. 4 Q. Do you know what I'm talking about? 5 A. No. 6 Q. Well, when you hire an administrator, do you 7 sort of see them to be your shadow person to 8 do whatever it is you want them to do, or do 9 you let them function independently? 10 MS. NELSON: Object to the form. 11 A. If I hire them to be the administrator, I 12 expect them to act independently. I 13 mean -- yeah. I don't expect them to do what 14 I want them to do. 15 Q. If you and one of your hired administrators 16 disagrees on a substantive matter, who 17 prevails? 18 A. It depends on what it is. 19 Q. Can you give some examples of when you would 20 permit them to prevail and examples of when 21 you would make the decision? 22 A. I can't think of any. 23 Q. Just if you can, but you can't come up with an	1 state of Alabama. I guess I would directly 2 answer to the City of Dothan Commission. But 3 they don't -- I mean, as far as who does our 4 ultimate -- I guess that would be 5 Administrative Office of Courts. It's who we 6 report to. We report all our dispositions, 7 our case numbers, everything goes to them. 8 Q. Is that in Montgomery? 9 A. Yes. 10 Q. Well, who supervises you locally? 11 A. Supervises me? I guess that would be the 12 Commission. 13 Q. Who is responsible for your evaluation? 14 A. The city manager does our annual review, I 15 guess, as a department head. 16 Q. So he does your evaluation? 17 A. Yes. He does my annual review. 18 Q. Is he in a position to know what you do? 19 A. Is he in a position to know what I do? 20 MS. NELSON: You're talking about the city 21 manager? 22 MR. JAFFREE: Yeah. 23 MS. NELSON: If you know.
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1 example. 2 A. I don't know what that allow me to prevail 3 as -- somebody -- I don't know. I don't 4 understand the question. 5 Q. Well, the decision with respect to discipline, 6 a subordinate employee, and you and the 7 administrator differ on what discipline should 8 be netted out, who would generally prevail in 9 those disagreements. 10 A. I -- generally, absent any -- I would let them 11 do it, because they're over there with them, 12 they know the facts. They know, you know, 13 what's going on. And I can't imagine that I 14 would, you know, not defer if there was just a 15 -- if there wasn't a problem. 16 Q. Okay. 17 A. I normally wouldn't even know unless they 18 brought it to me. 19 Q. In your position as municipal judge, who do 20 you answer to? 21 A. Administrative Office of Courts. 22 Q. And who is that? 23 A. Governing body of judicial systems in the	1 Q. Well, you're pausing without an answer. Do 2 you know the answer to that, whether he's in a 3 position or not? 4 MS. NELSON: Well, obviously, she 5 confused. Do you understand his 6 question? 7 THE WITNESS: I don't. 8 A. I mean, is he in a position to know what I do 9 physically, like every day what I do or what I 10 do -- 11 Q. On how well you do your job. Is he in any 12 position to know? 13 A. I would think so. 14 Q. How often does he come over to your court to 15 observe you perform? 16 A. Pretty often. I mean, he'll pop in and pop 17 out. But I don't think it's -- yeah. 18 He'll -- pretty often. I don't have a number. 19 Q. And what's his name? 20 A. Mike West. But now -- yeah, Mike West. 21 Q. Well, what social organizations do you belong 22 to? 23 A. Oh, Lord. Delta Sigma Theta Sorority.

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1 Q. Is that a female organization?	1 Q. Isn't true they didn't have any Caucasian in their membership?
2 A. It is.	2 A. I don't know that to be true.
3 Q. Males are excluded?	3 Q. Well, doesn't BASA stand for Black American Law Student Association?
4 A. Yeah.	4 A. It does. Well, we were MLSA, Minority Law Students Association.
5 Q. Black or white organization?	5 Q. They changed from BASA to Minority?
6 A. I don't know that it's been characterized. I think it's multiethnic.	6 A. At Tulane.
7 Q. You are of the one -- the group that you belong to is mostly black, mostly white, or mixed?	7 Q. Okay. Do you view yourself as an American first or an African-American?
8 A. Mostly black.	8 MS. NELSON: Object to the form.
9 Q. Would you say 95 percent black?	9 A. I never thought about it.
10 A. Yes.	10 Q. Well, if you think about it now, how do you view yourself?
11 Q. Maybe 99 percent black?	11 A. American.
12 A. The one -- the Dothan chapter?	12 Q. What about African-American; is that secondary?
13 Q. Yeah?	13 A. I just -- I never I think about it.
14 A. 100 percent black.	14 Q. Okay. Would you say that you have a race consciousness?
15 Q. 100 percent black. What other organizations do you belong to?	15 MS. NELSON: Object to the form.
16 A. Social organizations. That would exclude professional organizations. That's about it socially.	16 A. A race -- a consciousness of what my race is?
17 Q. How do you feel about belonging to an exclusively black organization?	
18 MS. NELSON: Object to the form.	
19 A. How do I feel? I've never thought about it.	
20 I go to an exclusively black church. It's not something I chose. It's just that's the organization's makeup.	
21 Q. What about BASA; were you a member of BASA at any time?	
22 A. I was.	
23 Q. Is that an exclusively black organization?	
1 A. No.	
2 Q. BASA permits non-blacks?	
3 A. At Tulane it did.	
4 Q. How many non-blacks did BASA have at Tulane when you was there?	
5 A. I don't have a number but there were ethnic -- other ethnicities included.	
6 Q. Well, how many Caucasians?	
7 A. But they were called the Minority Law Students Association.	
8 Q. How many Caucasians did BASA have when you was at Tulane?	
9 A. I don't know.	
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1 Q. Yeah. Race consciousness. Are you familiar with that term?	1 Q. Yeah. Race consciousness. Are you familiar with that term?
2 MS. NELSON: Object to the form.	2 A. I'd ask you to be more specific. I'm very conscious of what my race is, yes, that I am black. Yes, I'm conscious of that. Yes, I'm conscious of the fact that I'm black.
3 A. I go to an exclusively black church. It's not something I chose. It's just that's the organization's makeup.	3 Q. Were you aware when you first became the magistrate for this city that there had not been any prior black judges in the city?
4 Q. What about BASA; were you a member of BASA at any time?	4 A. No.
5 A. I was.	5 Q. Were you aware subsequent to your becoming a magistrate that there's never been any black judges in the city?
6 Q. Is that an exclusively black organization?	6 A. I've never been a magistrate.
7 A. No.	7 Q. I'm sorry. Let me rephrase my question. Were you aware when you became the municipal judge, there had never been a black judge in this city, is what I intended to say?
8 Q. BASA permits non-blacks?	8 A. Black judge in this whole city, was I aware of that? No.
9 A. At Tulane it did.	9 Q. Were you subsequently made aware of that?
10 Q. How many non-blacks did BASA have at Tulane when you was there?	10 A. I mean, I've never asked. No.
11 A. I don't have a number but there were ethnic -- other ethnicities included.	11 Q. Okay. Were you aware when you became
12 Q. Well, how many Caucasians?	
13 A. But they were called the Minority Law Students Association.	
14 Q. How many Caucasians did BASA have when you was at Tulane?	
15 A. I don't know.	

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<p style="text-align: center;">Page 109</p> <p>1 municipal judge that there wasn't any 2 African-American magistrates employed in the 3 magistrate office? 4 A. Once I started to -- 5 Q. Yeah. Once you started working, were you 6 aware -- 7 A. I saw that there were none, yes. 8 Q. You could visibly see that? 9 A. Yes. 10 Q. Were you aware that there had never been any? 11 A. No. 12 Q. Did you subsequently become aware that there 13 had never been any? 14 A. No. I don't know that there have never been 15 any before I came in life. You know, I don't 16 know. 17 Q. Do you remember testifying anywhere that there 18 had never been any African-American in the 19 City of Dothan; do you remember testifying to 20 that? 21 A. No, not specifically. I don't know through my 22 tenure. 23 Q. Yeah. Were you determined to change that</p>	<p style="text-align: center;">Page 111</p> <p>1 MS. NELSON: As long as your answer is 2 understood. 3 Q. You want to change an answer? 4 A. (Witness shakes head in the negative.) 5 Q. You testified earlier that you never had any 6 Title VII litigation -- I'm sorry -- Title VII 7 classes in school, right? 8 A. No, I did not testify to that. 9 Q. How would you define free speech? 10 MS. NELSON: Object to the form. Object 11 to this line of inquiry. 12 MR. JAFFREE: How would -- 13 MS. NELSON: It calls for a legal 14 conclusion. 15 Q. How would you define -- as an attorney, how 16 would you define free speech? 17 MS. NELSON: Object to the form. 18 A. I've never thought about it. I mean, freedom 19 of speech. I've never thought about it. I 20 don't have a definition. 21 Q. Well, do you think government employees should 22 be entitled to some free speech rights? 23 MS. NELSON: Object to the form, what she</p>
<p style="text-align: center;">Page 110</p> <p>1 result? 2 A. No. 3 Q. Did you change that result? 4 A. The fact that there were never any 5 magistrates -- black magistrates? 6 Q. The fact that there wasn't any. 7 A. Did I change it? 8 MS. NELSON: You mean, did she hire any? 9 A. Right. Did I hire any black people to be a 10 magistrate? 11 Q. However you had to change it, did you change 12 the fact that wasn't any African-American 13 magistrates in the City of Dothan? 14 A. I guess I did. 15 Q. You're not sure? 16 A. I mean, I hired people that -- you know, off 17 of a register that were black. But it wasn't 18 an intentional I'm going to change the fact. 19 It's just people who are on a register. 20 Did I change that? Yes. 21 MS. NELSON: You're okay to say -- 22 THE WITNESS: I was just trying to say yes 23 or no.</p>	<p style="text-align: center;">Page 112</p> <p>1 thinks. 2 A. And not just government employees. I know 3 citizens have a right of free speech whether 4 they're government employees or not. As a 5 citizen of the United States, you have a right 6 of speech. 7 Q. You think do? You think citizens have a right 8 to free speech? 9 MS. NELSON: You asked her what she 10 thought; that's what she said. 11 Q. I'm was just saying, do citizens generally 12 have a right to free speech? 13 A. Yes. 14 Q. And that's true in the private sector as well? 15 MS. NELSON: Private sector of what? 16 A. Citizens not employees. 17 Q. Well, what about non-government employees; do 18 you think they have a right to free speech? 19 MS. NELSON: Object to the form. 20 A. And I've never thought about it. 21 Q. Well, do you think that a government 22 employee's free speech rights, to the extent 23 they exist, should be broadly or narrowly</p>

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<p style="text-align: right;">Page 113</p> <p>1 construed?</p> <p>2 MS. NELSON: Object to the form, object to</p> <p>3 what she thinks, and object to your</p> <p>4 asking for a legal opinion.</p> <p>5 MR. JAFFREE: I'm asking for a legal</p> <p>6 opinion from an attorney.</p> <p>7 MS. NELSON: Well, an attorney who does</p> <p>8 not specialize or has testified that</p> <p>9 she is not a constitutional law judge</p> <p>10 or a constitutional law attorney. So</p> <p>11 I object to this line of inquiry.</p> <p>12 You're seeking a legal conclusion from</p> <p>13 the witness.</p> <p>14 MR. JAFFREE: I'm not sure you have to be</p> <p>15 that sophisticated to know the answers</p> <p>16 to those questions. I'm just not</p> <p>17 convinced that you have to be that</p> <p>18 sophisticated or like grounded in</p> <p>19 constitutional jurisprudence to answer</p> <p>20 to those questions.</p> <p>21 MS. NELSON: That's your opinion.</p> <p>22 MR. JAFFREE: Well, that's your opinion.</p> <p>23 MS. NELSON: Can you cite the latest five</p>	<p style="text-align: right;">Page 115</p> <p>1 construed. So I would like to know the nature</p> <p>2 of the debate on both sides before I make a</p> <p>3 decision as to which side I would choose.</p> <p>4 Q. Let me ask this: Once a person become a</p> <p>5 government employee, do you think they lose</p> <p>6 their constitutional rights?</p> <p>7 MS. NELSON: Object to the form as to what</p> <p>8 she thinks.</p> <p>9 A. The constitutional rights as a citizen of the</p> <p>10 United States?</p> <p>11 Q. Yeah.</p> <p>12 A. No.</p> <p>13 Q. Once they become an employee.</p> <p>14 A. I don't think they lose their constitutional</p> <p>15 rights.</p> <p>16 Q. Should their rights be limited because they</p> <p>17 become a government employee?</p> <p>18 MS. NELSON: Object to the form.</p> <p>19 A. Their constitutional rights as citizens of the</p> <p>20 United States?</p> <p>21 Q. Yeah. Their constitutional rights as citizens</p> <p>22 of the United States?</p> <p>23 A. No. I don't think just because they're</p>
<p style="text-align: right;">Page 114</p> <p>1 Supreme Court cases issued by the</p> <p>2 Roberts court on free speech?</p> <p>3 MR. JAFFREE: I don't know them or profess</p> <p>4 to be able to. But I'm not your</p> <p>5 witness.</p> <p>6 MS. NELSON: You brought this case</p> <p>7 alleging on constitutional rights, and</p> <p>8 you don't know?</p> <p>9 MR. JAFFREE: I'm not your witness.</p> <p>10 Q. Do you think that free speech for government</p> <p>11 employees should be narrowly or broadly</p> <p>12 construed?</p> <p>13 MS. NELSON: Object to the form and object</p> <p>14 to what she thinks.</p> <p>15 A. And I've never thought about it.</p> <p>16 Q. Well, if you take a moment to think about it,</p> <p>17 what do you think?</p> <p>18 MS. NELSON: Object to what she thinks.</p> <p>19 A. I -- I -- it takes more than a moment for me</p> <p>20 to think about it because I'm sure that there</p> <p>21 are schools of thought on both sides, those</p> <p>22 who think they should be narrowly construed</p> <p>23 and those that think they should be broadly</p>	<p style="text-align: right;">Page 116</p> <p>1 employed that they should lose their rights as</p> <p>2 citizens of the United States.</p> <p>3 Q. Do you think free speech liberties are</p> <p>4 fundamental in our society?</p> <p>5 MS. NELSON: Object to the form. It calls</p> <p>6 for legal conclusion.</p> <p>7 Q. Do you think that free speech is a fundamental</p> <p>8 right?</p> <p>9 MS. NELSON: Object to the form. Same</p> <p>10 objection.</p> <p>11 Q. Do you understand what I mean?</p> <p>12 A. A fundamental right?</p> <p>13 Q. Yeah.</p> <p>14 A. Is it a -- or the most fundamental right?</p> <p>15 Q. Well, one of the group of fundamental rights.</p> <p>16 A. Fundamental rights.</p> <p>17 Q. Do you think so?</p> <p>18 MS. NELSON: Object to the form.</p> <p>19 A. Yeah. And I've had to think. I would say</p> <p>20 yes, I would think it would be.</p> <p>21 Q. Well, what about the freedom of association;</p> <p>22 do you think that should be a fundamental</p> <p>23 right as well?</p>

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1 MS. NELSON: Object to the form.	1 Q. Well, why not? Why shouldn't the public know that they have a right to seek recourse with the City clerk?
2 A. Fundamental meaning incontrovertible, that you have this no matter what?	2 A. I think they should know they have a right to seek recourse with the -- I think they have a right to know they need to go -- if they have a claim, they have to go to the City clerk's office to file that claim. Yeah, I think they do have that right to know just that. If you have a claim, you need to go to the City clerk's office and file it.
3	3
4 Q. Meaning those groups of rights that --	4 Q. What about the right to know that something wrong has been done to them by their government? Do they have a right to know that?
5 A. Are fundamental.	5 A. Well, who determines whether something wrong has been done by their government?
6 Q. -- those groups of rights that a civilized society should have and should observe, are those rights without which a civilized society could not long exist?	6 Q. Well, what if something wrong has been done, do they have a right to know that something wrong has been done to them by their government?
7	7
8	8
9	9
10 MS. NELSON: Object to the form.	10 A. Generally? I mean, like in the whole world?
11 A. Yeah. I've never thought about it.	11 I don't know.
12 Q. But when you think about it in that context, do you think the right to free speech is fundamental?	12
13	13
14	14
15 MS. NELSON: Object to the form.	15
16 A. To whom?	16
17 Q. To the individual speaking.	17
18 MS. NELSON: Object to the form.	18
19 A. I guess it would depend on the individual.	19
20 You know, I've not thought about it.	20
21 Q. Okay. In your opinion, if an employee of the City of Dothan tells a consumer or a defendant that they can seek recourse with the City	21
22	22
23	23
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1 clerk if they have a claim, that that would be a matter of public concern?	1 Q. Well --
2	2
3 MS. NELSON: Object to the form.	3 A. Somebody has got to determine that there has been a wrong.
4 Q. Do you understand the question?	4 Q. Well, let's assume that there has been a wrong and some government employee tells a consumer citizen/defendant that there has been a wrong, would that be something that that citizen/consumer/defendant would have a right to know or should have a right to know?
5 A. No. Could you just repeat it. I was thinking about social organizations. I'm sorry.	5 10 MS. NELSON: Object to the form. Right to know by whom?
6	6
7 Q. Do you think that if a government employee tells a citizen that if they have a claim against the City, they could seek recourse by filing that claim with the City clerk, that that's a matter of public concern?	7
8	7
9	8
10	9
11	10
12 MS. NELSON: Object to the form.	11
13 A. Do I think that if all they told them is that you need to go to the City clerk's office? Is that your question? If that's all they said to the person, if you have a claim, you need to go to the City clerk's office?	12 A. And who said it was wrong, that person?
14	13
15	14
16	15
17	16
18 MS. NELSON: That's not his --	17 Q. If they had been wronged, do they have a right to know that they have been wronged?
19 THE WITNESS: Right. That wasn't his question.	18 MS. NELSON: Object to the form.
20	19
21 A. So, no.	20 Q. Is that something that the consuming public should know? Do you have to wrestle with this question?
22 Q. It's not a matter of public concern?	21 MS. NELSON: Well, you've got me confused because I'm not sure what you're talking about. If you want to specifically ask her about Mary Beth Brackin's situation --
23 A. No.	22
	23

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<p>1 MR. JAFFREE: I'm asking her in general. 2 MS. NELSON: You're asking her 3 hypothetical questions which I don't 4 even understand. 5 Q. Well, do you understand the question? 6 A. I mean, in the whole world? 7 Q. Your attorney is trying to tell you that you 8 don't understand, but do you not understand 9 the question? 10 A. No. Because you're asking in the whole world 11 if a citizen has been wronged by the 12 government -- 13 Q. By his government. Do you think -- 14 A. -- do they have a right to know? 15 Q. As a general principle, is it a matter of 16 public concern to that citizen that his 17 government or her government has wronged them? 18 MS. NELSON: Object to the form. 19 Q. As a general principle. 20 MS. NELSON: Right to know from whom? 21 Q. Right to know from any member of government 22 telling that person that your government has 23 wronged you?</p>	<p>1 A. Wronged them how? 2 Q. All right. So let's be more specific as your 3 attorney suggested. 4 A. Please. 5 Q. What if a citizen had been wrongfully arrested 6 in the City of Dothan in the municipal court 7 or at least by process that was issued by the 8 municipal court, they were wrongfully arrested 9 by mistake, by error, no malice but just 10 wrongfully arrested? Is that something that 11 is a matter of public concern, the fact that 12 they have been wrongfully arrested? 13 MS. NELSON: Object to the form. 14 A. I think it depends on -- 15 THE WITNESS: Do I answer? 16 MS. NELSON: Yeah. 17 A. I think it depends on how you define public 18 concern. I mean, is it the concern of the 19 entire public that this person has been 20 wrongfully arrested and should this person go 21 out broadcasting to the entire world, hey, 22 this person has been wrongfully arrested? I 23 don't know. I don't know how what -- I don't</p>
<p style="text-align: center;">Page 122</p> <p>1 MS. NELSON: Object to the form. 2 Q. The information of something they have a right 3 to know that the government has wronged them? 4 Now, the transcript is only going to show 5 a response. The reality is that you're taking 6 a long time to respond. And I'm asking 7 you -- I mean, you're taking a long time to 8 respond on most of these questions, a long 9 time. 10 But I'm asking you, is this something that 11 you're wrestling with in your own conscience? 12 A. I just think it's a vague, hypothetical 13 question. 14 Q. What's vague about that? 15 MS. NELSON: I don't have a clue what 16 you're -- 17 Q. What's vague about the principle? You think 18 the principle is vague? 19 A. Whether or not a person had the right to know 20 that their government has wronged them. 21 MS. NELSON: Object to the form. That is 22 so hypothetical, so not 23 understandable.</p>	<p style="text-align: center;">Page 124</p> <p>1 know how you define public concern. 2 Q. Let's assume -- 3 A. What is public concern, Mr. Jaffree? How do 4 you define public concern? 5 Q. Something the members of the public would have 6 a right to know, something that is of import 7 to members of the public. 8 A. So every claim that's filed against the City 9 of Dothan by a citizen, an employee should go 10 tell everybody, hey, this person has been 11 wronged, they should have a right to do that? 12 Is that what you're asking me? 13 Q. Well, that's not what I asked you. 14 A. I don't know. That's what I'm saying. I 15 don't what you're asking me. 16 Q. Let me see if this hypothetical one you're 17 going to have to wrestle with as well. 18 MS. NELSON: Well, I'm going to -- 19 THE WITNESS: Do you have the Fondren 20 investigation stuff? Can we see that? 21 MS. NELSON: The Fondren stuff? 22 THE WITNESS: Yes. 23 MR. JAFFREE: We're going to get to the</p>

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<p style="text-align: right;">Page 125</p> <p>1 Fondren stuff in a minute. 2 MS. NELSON: Well, you're engaging her -- 3 I wish you would just get to the 4 Fondren stuff. You're engaging her in 5 a dialect to try to show your claims, 6 to engage her into legal issues and 7 questions which you would not allow me 8 to question your plaintiffs on 9 about --</p> <p>10 MR. JAFFREE: My clients are neophytes. 11 MS. NELSON: -- Constitution -- 12 MR. JAFFREE: I mean, they have no 13 schooling and -- the little smattering 14 of law they know is what they got from 15 the municipal office, which on -- 16 MS. NELSON: Well, the fact that the 17 judge -- 18 MR. JAFFREE: -- which on the total scheme 19 of things is not very much. 20 MS. NELSON: Well, still doesn't mean you 21 can question her on all theories of 22 constitutional law. 23 MR. JAFFREE: I suspect that a review in</p>	<p style="text-align: right;">Page 127</p> <p>1 Q. What about informing a citizen that they could 2 request the municipal judge to appoint another 3 public defender; is that a matter of public 4 concern that defendants should know? 5 A. That what? 6 MS. NELSON: Object to the form. 7 Q. That they can ask the judge to appoint another 8 public defender, is that something that a 9 defendant should know? 10 MS. NELSON: Object to the form. 11 A. If they can -- if they have a right to ask the 12 judge to use another public defender? 13 Q. And if you tell them that is -- 14 A. And that's all they say? You can ask the 15 judge to give you another public defender. 16 That's all. 17 Q. If you tell them that, then that's okay? 18 A. That's it, right. 19 Q. So you're saying that that is a matter that 20 they should have a right to tell somebody? 21 A. Yeah. 22 Q. In your opinion, do employees give up their 23 right to free speech and association when they</p>
<p style="text-align: right;">Page 126</p> <p>1 court would say that I could treat a 2 sitting judge who has several years of 3 law school who's been an attorney for 4 years is different. 5 MS. NELSON: I disagree. The facts are -- 6 you can ask her the facts of this 7 case. The facts are what they are. 8 You can argue all day whether it's 9 public concern, whether the City had 10 business reason -- justifiable reasons 11 for placing certain restraints in 12 effect. And we can argue with the 13 courts all day long. But to ask this 14 judge hypotheticals for the rest of 15 this morning is inappropriate, and I'm 16 going to continue to object. 17 MR. JAFFREE: I'm moving. 18 MS. NELSON: And we can be here until the 19 cows come home. 20 MR. JAFFREE: Well, I'm not going to wait 21 until the cows come home because I'm 22 going to move on. 23 (Brief recess)</p>	<p style="text-align: right;">Page 128</p> <p>1 enter the public square? 2 MS. NELSON: Object to the form. 3 A. No. 4 Q. How do you define due process? 5 MS. NELSON: Object to the form. It calls 6 for legal conclusion. 7 A. Generally? 8 Q. Yeah. Generally, how do you define that? 9 A. Due process. Just a -- you know, a mechanism 10 by which a person is afforded a hearing on an 11 issue. 12 Q. Are you familiar with substantive due process? 13 A. Somewhat, yes. 14 Q. How do you define substantive due process? 15 MS. NELSON: Object to the form. Calls 16 for legal conclusion. 17 MR. JAFFREE: She said she's familiar. 18 Q. How do you define it? 19 MS. NELSON: Object to the form. She said 20 generally. 21 A. Yeah. Generally, just due process, just the 22 ability of a person to have a -- to be heard 23 on an issue.</p>

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<p style="text-align: right;">Page 129</p> <p>1 Q. Well, isn't substantive due process a little 2 bit something more than that? 3 A. If that's how you define it. I don't know. 4 That's what I think it is. 5 Q. If I tell you that, in my view, substantive 6 due process means that there's some things 7 people shouldn't lose a property interest 8 regardless of what kind of procedure of 9 process is afforded them. 10 Would you agree that this -- 11 MS. NELSON: Object to the form. 12 A. No. 13 Q. You don't agree to that? Okay. 14 A. I would agree that that's your opinion. 15 Q. Goodness. My opinion. Okay. 16 Do you agree that merit system employees 17 have a property interest in continued 18 employment? 19 MS. NELSON: Object to the form. It calls 20 for legal conclusion and an opinion. 21 Q. Do you know whether or not they have a 22 property interest in continuing employment? 23 If you know.</p>	<p style="text-align: right;">Page 131</p> <p>1 system employee may have in challenging an 2 employment termination decision, does she or 3 he have any substantive rights? 4 MS. NELSON: Object to the form. 5 A. Anywhere in the world or in the city of 6 Dothan? 7 Q. In the city of Dothan. 8 MS. NELSON: Object to the form. 9 A. Yeah. I don't know. I'm not familiar with 10 what rights are afforded. 11 Q. Was Mary Brackin a merit system employee as 12 far as you know? 13 A. Yes, as far as I know. 14 MS. NELSON: Object. When you say "merit 15 system," what do you mean? 16 MR. JAFFREE: In the classified 17 system a -- 18 MS. NELSON: Classified, non-probationary 19 employee? 20 MR. JAFFREE: Yeah, classified, 21 non-probationary employee. 22 MS. NELSON: Okay. 23 A. Yes.</p>
<p style="text-align: right;">Page 130</p> <p>1 A. I would agree, yes, that they do have a 2 property interest. 3 Q. You agree. Okay. Good. 4 And this right can only be taken for good 5 cause shown? 6 MS. NELSON: Object to the form. 7 A. Do I agree that it can be only be taken with 8 good cause shown? 9 Q. Yeah. 10 A. Their property right -- their property 11 interest in employment can only been taken for 12 good cause shown. I would agree with that. 13 Yes. 14 Q. All right. I also asked you about substantive 15 rights, and you sort of disagreed with the 16 substantive rights of municipal employees. 17 A. No. 18 MS. NELSON: I object. 19 A. With your definition. 20 MS. NELSON: I object to the 21 characterization of her comment. 22 MR. JAFFREE: Well, I'm asking. 23 Q. In addition to procedural rights that a merit</p>	<p style="text-align: right;">Page 132</p> <p>1 MS. NELSON: That's what you mean by merit 2 employee? 3 MR. JAFFREE: Well, yes. But they 4 generally mean that the -- they are -- 5 MS. NELSON: Who is "they?" 6 MR. JAFFREE: Courts. They generally 7 classify merit system employees, are 8 employees that after they have gone 9 through their probationary period can 10 only be terminated for cause. 11 MS. NELSON: Is that your -- that's 12 your -- 13 MR. JAFFREE: That's my opinion of the 14 law. 15 MS. NELSON: -- opinion. 16 MR. JAFFREE: Prove me wrong. 17 Q. Anyway, starting with the first day of your 18 hire, ending with the last day of Mary 19 Brackin's employment, can you identify all the 20 employees that you have disciplined in any 21 manner? 22 A. No. 23 Q. You can't identify them?</p>

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<p style="text-align: right;">Page 133</p> <p>1 A. No, I can't identify every employee that I've 2 disciplined since Mary Beth was hired till 3 today, because I don't know when Mary Beth was 4 hired and it covers along time span.</p> <p>5 Q. All right. Well, let's say since she was 6 rehired in 2001, up to the time that she was 7 terminated, do you know all the employees that 8 you have terminated?</p> <p>9 A. Terminated?</p> <p>10 Q. I'm sorry. You have disciplined.</p> <p>11 A. No.</p> <p>12 Q. Let's me ask you this: Have you ever 13 disciplined a black employee?</p> <p>14 A. Specifically, a black employee? I don't 15 remember.</p> <p>16 Q. Have you ever disciplined specifically a white 17 employee?</p> <p>18 A. It depends on what you mean by "discipline." Do you mean a personnel writeup, a memo like 19 Nancy did, or e-mail. She said that was 20 discipline when she e-mailed somebody. So --</p> <p>22 Q. Well, how do you define discipline?</p> <p>23 A. No. How do you define it? Because I've got</p>	<p style="text-align: right;">Page 135</p> <p>1 it counsels them on something they did and 2 punishes them in some way for their actions. 3 Yes.</p> <p>4 Q. The memo's got to punish them?</p> <p>5 A. For it to be discipline.</p> <p>6 Q. Have you ever sent a memo punishing some black 7 employee for something that they did?</p> <p>8 A. Have I ever sent a memo -- I'm not -- I might 9 have.</p> <p>10 Q. Do you know whether you have?</p> <p>11 A. No, I don't know whether I have or not 12 specifically.</p> <p>13 Q. Have you ever sent a memo or other written 14 document punishing some white employee for 15 something that they have done?</p> <p>16 A. I might have. I -- I'm not -- I don't know. 17 I'm not --</p> <p>18 Q. You don't know whether you have or not?</p> <p>19 A. I don't remember every specific incident if I 20 did send a memo.</p> <p>21 Q. Do you remember any specific incident?</p> <p>22 A. No.</p> <p>23 Q. You don't remember any --</p>
<p style="text-align: right;">Page 134</p> <p>1 to answer your question.</p> <p>2 Q. I'm asking you the question: How do you 3 define discipline?</p> <p>4 A. How do I define discipline? When I whip my 5 children. I'm sorry. But that's what I think 6 of as discipline.</p> <p>7 Q. As far as a employee of the City of Dothan in 8 the Judicial Department, how do you define 9 discipline?</p> <p>10 A. How do I define discipline? I mean, I guess 11 it could be any number of means: verbal 12 counseling, writeup, e-mail.</p> <p>13 Q. Okay.</p> <p>14 A. Let me think of all the forms of discipline: 15 verbal counseling, write-ups, e-mails, memos.</p> <p>16 Q. So it's your testimony that Nancy's testimony 17 that she sent a memo to an employee is a form 18 of discipline?</p> <p>19 A. That was Nancy's testimony. I agree with 20 that.</p> <p>21 Q. Is that your view, that that's a form of 22 discipline?</p> <p>23 A. It depends on what the memo says. If it --if</p>	<p style="text-align: right;">Page 136</p> <p>1 A. No.</p> <p>2 Q. -- specific incident?</p> <p>3 A. I don't remember any.</p> <p>4 Q. Okay. Have you ever terminated a white 5 employee?</p> <p>6 A. Ever in life?</p> <p>7 Q. During the time that you was a municipal judge 8 with the City Of Dothan?</p> <p>9 A. Yes.</p> <p>10 Q. Do you know the names of the black employees 11 that you have terminated since you have been a 12 municipal judge with the City of Dothan?</p> <p>13 A. No, I don't.</p> <p>14 Q. You don't know the names of the employees that 15 you have terminated since you have been a 16 municipal judge with the City of Dothan?</p> <p>17 A. Do I know each and every name?</p> <p>18 Q. Well, first, do you know each and every name? 19 MS. NELSON: Each and every name of what? 20 MR. JAFFREE: Of the employees that she 21 has terminated since she's been a 22 municipal judge with the City of 23 Dothan.</p>

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<p style="text-align: right;">Page 137</p> <p>1 MS. NELSON: Any names is what you're 2 asking?</p> <p>3 MR. JAFFREE: Well, first, she asked me 4 each and every name.</p> <p>5 MS. NELSON: Each and every name?</p> <p>6 MR. JAFFREE: So I'm asking her a 7 question.</p> <p>8 Q. Do you know each and every name?</p> <p>9 MS. NELSON: Just right here from memory?</p> <p>10 MR. JAFFREE: Well, from however.</p> <p>11 Q. Do you know each and every name?</p> <p>12 A. I'm not sure that if I gave you a list, it 13 would be all inclusive.</p> <p>14 Q. Well, can you give me a list?</p> <p>15 A. Of every employee that's been terminated by 16 the City of Dothan.</p> <p>17 Q. By you?</p> <p>18 A. By me.</p> <p>19 Q. By your hand, by your instigation?</p> <p>20 MS. NELSON: Object to the form.</p> <p>21 A. By my instigation?</p> <p>22 MS. NELSON: Object to the form.</p> <p>23 Q. That you had some involvement in the</p>	<p style="text-align: right;">Page 139</p> <p>1 second. Debbie Irby wasn't terminated, was 2 she?</p> <p>3 A. Well, she was allowed to resign, so strike her 4 through as a terminated employee.</p> <p>5 Q. But you was going to terminate her?</p> <p>6 A. I don't remember. I -- I was just including 7 her in the list.</p> <p>8 Q. Okay.</p> <p>9 A. She resigned so I didn't -- that -- that 10 wasn't the question. I guess if that's what 11 you're saying.</p> <p>12 Q. Anyone else associated with Debbie on this 13 time card thing?</p> <p>14 A. Well, maybe they didn't -- I can't give you a 15 list of people who were terminated, then, 16 because some of them might have resigned.</p> <p>17 Q. Anyone else associated with Debbie Irby 18 dealing with that time card?</p> <p>19 A. Whether they were terminated or resigned? Is 20 that what you're asking me?</p> <p>21 Q. Yeah, terminated or resigned associated with 22 Debbie?</p> <p>23 A. So we're adjusting the question now to</p>
<p style="text-align: right;">Page 138</p> <p>1 termination of this employee that was employed 2 with the Judicial Department during your 3 tenure for the City of Dothan?</p> <p>4 A. Well, there was one employee that was 5 terminated for testing positive for drugs.</p> <p>6 Q. Who was that?</p> <p>7 A. I don't remember her name. Allison. But I 8 don't remember her last name.</p> <p>9 There was another employee who 10 falsified --</p> <p>11 Q. Well --</p> <p>12 A. No. I've got to tell you why because I don't 13 --</p> <p>14 Q. Well, if you insist on telling me why, go 15 ahead.</p> <p>16 A. There was another employee who was terminated 17 for falsifying a time card, putting down time, 18 saying that she was here for a week when she 19 was not.</p> <p>20 Q. Who is that?</p> <p>21 A. I don't remember. That would be Debbie Irby. 22 Then her supervisor --</p> <p>23 Q. Well, excuse me. Let me stop you for a</p>	<p style="text-align: right;">Page 140</p> <p>1 employees that were either terminated or 2 resigned? I can include either category?</p> <p>3 Q. Well, that you caused to resign.</p> <p>4 MS. NELSON: Object to the form.</p> <p>5 A. I didn't -- no.</p> <p>6 Q. Well, then let's just limit it to terminated 7 then. Okay? Terminated. You're the one that 8 gave me Debbie Irby's name. But, fine, we'll 9 strike her.</p> <p>10 A. You said she resigned.</p> <p>11 Q. Well, I just wanted to clarify that because 12 the Record is going to suggest that she 13 resigned.</p> <p>14 A. Yeah.</p> <p>15 Q. But who were you involved with that was 16 terminated?</p> <p>17 A. I guess terminated would be the employee who 18 testified -- who tested positive for drugs. 19 Whether she was terminated or resigned, I 20 don't remember.</p> <p>21 Q. But Allison may have resigned?</p> <p>22 A. The employee who falsified her time card and 23 somebody turned it in to Personnel. The</p>

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<p style="text-align: right;">Page 141</p> <p>1 supervisor who signed the time card that was 2 falsified might have been terminated or 3 resigned. I'm not sure.</p> <p>4 Q. Who was that?</p> <p>5 A. Who?</p> <p>6 Q. Are we talking about Debbie Irby, or are we 7 talking about somebody else?</p> <p>8 MS. NELSON: You're asking who was Debbie 9 Irby's supervisor? Is that who --</p> <p>10 A. Donna Nicholson was Debbie Irby's --</p> <p>11 Q. So you terminated Donna Nicholson?</p> <p>12 A. I'm not sure whether she was terminated or 13 resigned.</p> <p>14 Q. Can we stop at Donna Nicholson a minute? And 15 let me ask you, Donna Nicholson is the one 16 that was involved in placing a adverse entry 17 in the evaluation of Mary Brackin I think in 18 2001; is that correct?</p> <p>19 A. I don't remember.</p> <p>20 Q. And do you remember the incident involving 21 Ms. Ralpeje? Do you remember Ms. Ralpeje?</p> <p>22 A. I remember the name Ralpeje.</p> <p>23 Q. And do you remember initiating an internal</p>	<p style="text-align: right;">Page 143</p> <p>1 Q. You're saying Ms. Ralpeje complained saying what?</p> <p>2 A. She made allegations that she had been told by 3 a magistrate that we had had problems with a 4 public defender, that he wasn't any good, that 5 he should not have let her plead guilty to 6 that DUI. And -- and she came back in the 7 open court in front of people, saying all 8 that.</p> <p>9 And then we had a bondsman come up and 10 said that he felt threatened because 11 Ms. Brackin had called him at home the night 12 before and asked him to change his testimony 13 because she didn't say what he -- what -- 14 anyway, he was upset because he wanted to know 15 how Ms. Brackin got his number at home to call 16 him. And he wanted -- and he said that she 17 called him and asked him. So those were 18 allegations that I asked for an investigator 19 to look into.</p> <p>20 It also involved Ms. Ralpeje's mother or 21 her sister who was in the lobby also at the 22 time that Ms. Brackin talked to Ms. Ralpeje.</p>
<p style="text-align: right;">Page 142</p> <p>1 affairs investigation of Ms. Ralpeje?</p> <p>2 MS. NELSON: Object to the form.</p> <p>3 A. Of allegations made by a bondsman and 4 Mrs. Ralpeje?</p> <p>5 Q. Well, let's back up. Ms. Ralpeje didn't make 6 any accusation did she?</p> <p>7 MS. NELSON: Object to the form.</p> <p>8 A. Ralpeje?</p> <p>9 Q. Ms. Ralpeje did not make any allegation, did 10 she?</p> <p>11 A. She did about --</p> <p>12 Q. Well, the record says that she didn't make any 13 allegation.</p> <p>14 MS. NELSON: Well, I thought you were 15 asking this witness as to the Ralpeje 16 incident?</p> <p>17 MR. JAFFREE: We're getting to that.</p> <p>18 MS. NELSON: And you're not letting her 19 tell what happened. You're trying to 20 tell her how to testify.</p> <p>21 MR. JAFFREE: Well, she's saying 22 something, I'm trying to get some 23 clarity.</p>	<p style="text-align: right;">Page 144</p> <p>1 And -- and I did ask for an investigator 2 because we needed their expertise in dealing 3 with witness who are not employees of the 4 City of Dothan.</p> <p>5 Q. We'll talk about this investigation later.</p> <p>6 A. That's the whole gist of it.</p> <p>7 Q. But did you get the results of the 8 investigation?</p> <p>9 A. I think her supervisor got the results of the 10 investigation.</p> <p>11 Q. Okay. Did you have an opportunity to review 12 the results of the investigation?</p> <p>13 A. I'm sure I did, but I don't remember 14 specifically.</p> <p>15 Q. And the results of the investigation would 16 have included the transcript of the 17 investigators?</p> <p>18 A. I'm not sure what all it included.</p> <p>19 Q. But it could have included the transcript?</p> <p>20 A. It could have.</p> <p>21 Q. Now, the transcript says that Ms. Ralpeje did 22 not say that, did not make a complaint about 23 Ms. Brackin --</p>

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1 A. She did not make a complaint about 2 Ms. Brackin; she made a complaint about her 3 public defender. 4 Q. Well, she didn't make a complaint that 5 Ms. Brackin had said anything bad about her 6 public defender. 7 A. She did say that -- 8 Q. Well, the record -- 9 A. -- in open court. 10 Q. The record says that she didn't say that. 11 MS. NELSON: What record are you talking 12 about? 13 MR. JAFFREE: The transcript. 14 MS. NELSON: You're saying that 15 Ms. Brackin said she didn't say that. 16 MR. JAFFREE: Ms. Brackin said she didn't 17 say that? I'm saying that Ms. Ralpeje 18 said she didn't say that. 19 MS. NELSON: Do you have the record you 20 could show the judge? 21 MR. JAFFREE: Well, the record will be 22 produced. But I'm trying to -- 23 Q. Did you have an opportunity to observe the	1 A. More than likely. 2 Q. And at that time, Shaun McGhee was engaged to 3 Michelle Sellers? 4 A. At some point. I'm not sure that at that time 5 they were. 6 Q. But he could have been engaged to Michelle? 7 A. Could have. 8 Q. And Michelle Sellers took an active role in 9 this case, didn't she? 10 A. I don't think so. 11 Q. You don't think so? 12 A. No. 13 Q. Do you think Michelle Sellers was trying to 14 come up with theories on how Mary Beth could 15 be punished? 16 A. No. 17 Q. She wasn't? 18 A. The bondsman is what prompted the 19 investigation of Mary Beth because he -- he 20 was complaining about how did she get his 21 number as if she had used court documents to 22 get his number. 23 And Ms. Ott who was a prosecutor at that
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1 record? 2 A. I'm sure I did at some point. 3 Q. Okay. And if the record says that Ms. Ralpeje 4 did not say that, you're saying that she did? 5 A. Yeah. I was there. 6 Q. And are you saying that Ms. Ralpeje's other 7 person who was with her said that as well? 8 A. No, I didn't say what the other person said. 9 I said that the other person was in the -- the 10 bondsman and either her sister or her mother 11 were in the lobby with her. And so because 12 they were -- the mother and the sister was 13 there, she was in -- she was part of the 14 investigation. But I didn't do the 15 investigation. No. I asked for the 16 investigators to look into it. 17 Q. Now, the person that was involved was 18 Shaun -- Shaun is it? Is that his name, 19 Shaun? 20 A. Which person? 21 Q. The public defender. 22 A. Was Shaun McGhee. 23 Q. Shaun McGhee.	1 time said that we need to look into it in case 2 he brought some kind of action. He was very 3 upset when he came in -- 4 Q. Is your testimony -- 5 A. -- because he said that Mary Beth called him 6 at home and threatened -- not threatened. He 7 felt threatened because she asked him to 8 change his testimony. 9 Q. And, you know, Mary Beth disagreed with -- 10 A. Yeah, I do. 11 Q. -- with that statement? 12 A. I know that. 13 Q. All right. As a matter of fact, the only one 14 that makes the statement about something that 15 Mary Beth may have said adverse to a -- 16 concerning a public defender was the bondsman; 17 isn't that correct? 18 A. No. Ms. Ralpeje said that when she came back 19 to court. 20 Q. And isn't it also correct that the public 21 defender had only been in court just one 22 previous time; and, therefore, Ms. Brackin 23 would have no knowledge of any bad performance

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1 of him. Is that correct?	1 there working. She was gone to her brother's
2 A. No, I don't agree with that. I think Shaun	2 wedding in Wisconsin or somewhere.
3 had been there before.	3 One of their friends sent it over to
4 Q. Well, what if the record shows that he hasn't	4 Personnel. It never came through me.
5 been there before?	5 Personnel called and said, we've got a time
6 A. I don't know. But I just think -- I don't	6 card for a woman saying she worked a week, her
7 remember him --	7 supervisor signed it knowing she was not there
8 Q. Here's the point I'm trying to get at: Do you	8 that week, and you need to address it. And
9 recall having a debate on this issue with	9 they called me over. I didn't know anything
10 Debbie -- Donna Nicholson and you wanted Donna	10 about it.
11 to strongly discipline Ms. Brackin? Do you	11 Q. And you're saying it didn't have anything to
12 remember that?	12 do with comp time; is that your testimony?
13 A. No.	13 A. With what?
14 Q. And she said no, she don't think that she	14 Q. With comp time, that she was getting paid
15 should discipline her, and you insisted pretty	15 for --
16 much. You don't remember that dialogue?	16 A. Not that I --
17 A. No. She was not disciplined for that, was	17 Q. comp time.
18 she?	18 A. If it did, I don't see --
19 Q. Well --	19 MS. NELSON: What is comp time.
20 MS. NELSON: No, she wasn't.	20 A. -- why they would've fired -- why they
21 THE WITNESS: No, I didn't prevail if	21 fired -- comp time.
22 that's what he's saying.	22 MR. JAFFREE: What is comp time?
23 Q. Well, no, you didn't prevail.	23 MS. NELSON: Yes.
Page 150	Page 152
1 A. Well, you said, would I overrule her?	1 MR. JAFFREE: Are you familiar with the
2 Q. But shortly thereafter, Donna got fired. Now,	2 word "comp time?"
3 let's talk about this firing.	3 MS. NELSON: I want to know what you meant
4 Isn't it true that Donna got fired merely	4 by it.
5 because she was giving an employee comp time	5 MR. JAFFREE: To compensate her for her
6 but the employee had worked -- but hadn't	6 time that she had worked one week and
7 worked the week that she was claiming, but	7 she's claiming it another week.
8 giving her comp time for the next week? Isn't	8 A. Well, she should have put it on that week.
9 that true?	9 She shouldn't have put that she worked Monday,
10 A. That's not my understanding.	10 January 28th, eight hours; Tuesday, January
11 Q. And isn't it also true that you told Donna	11 29th, eight hours; Wednesday, January -- and
12 that had she asked you, you would have	12 if -- that implies that she worked those three
13 approved it, but since she didn't ask you in	13 days. And her supervisor signed it saying she
14 advance that she was being fired?	14 was there those three days. When they found
15 A. No. Can I answer your question, Mr. Jaffree.	15 out that it wasn't, they said her time card
16 Q. This is not true?	16 was falsified.
17 A. That is not true.	17 Q. Okay. But you summarily terminated her,
18 One of the employees in the magistrates'	18 right?
19 office who did not like Donna and Debbie	19 A. No.
20 copied the time cards where Debbie put that	20 MS. NELSON: Object to the form.
21 she was here Monday, Tuesday, Wednesday,	21 A. I did not summarily. We had a hearing. She
22 Thursday, where she put eight hours. She	22 had a hearing. She could have appealed it. I
23 didn't put comp time. She put that she was	23 mean, they -- she had due process.

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<p style="text-align: right;">Page 153</p> <p>1 Remember when you were asking me about due 2 process? Remember you were asking me about 3 due process? She had all the due process that 4 the civil rights thing you're -- everything 5 that Civil Service Act affords her, she had 6 it. And she chose -- she did not appeal it.</p> <p>7 Q. But the bottom line is that --</p> <p>8 A. If she felt wronged, she should've appealed 9 it. She had recourse.</p> <p>10 Q. You was angry with her because --</p> <p>11 A. No.</p> <p>12 Q. -- she did not discipline --</p> <p>13 A. No, I was not angry with her.</p> <p>14 Q. Well, let me finish the question.</p> <p>15 A. I've never been angry with her.</p> <p>16 Q. She did not discipline --</p> <p>17 A. No.</p> <p>18 Q. -- Ms. Brackin?</p> <p>19 A. No. No. Because if I -- I could have 20 disciplined her if I thought she needed it if 21 I wanted to overrule her.</p> <p>22 Q. Did you say Ms. Brackin's friend copied the time card?</p>	<p style="text-align: right;">Page 155</p> <p>1 tenure?</p> <p>2 Q. Yeah.</p> <p>3 A. Kevin Sorrells was terminated.</p> <p>4 Q. Did you play a role in that?</p> <p>5 A. I'm sure I did as department head. He was a 6 probational employee who other magistrates 7 told me they were afraid of because he threw 8 temper tantrums, threw files, threw a book and 9 hit the window.</p> <p>10 Q. If I asked you specifics about --</p> <p>11 A. Told me he was going to make me fire him.</p> <p>12 Q. Hold on. Hold on. If I asked you specifics about these throwing books and temper tantrums --</p> <p>13 A. I've seen him throw a fit. Mary Beth has, 14 too.</p> <p>15 Q. You can't provide any specifics, could you?</p> <p>16 A. Yeah. I've seen Kevin throw files when he got 17 mad and --</p> <p>18 Q. Were there any memos concerning his file throwing?</p> <p>19 A. I don't know if there were or not. He was on 20 probation.</p>
<p style="text-align: right;">Page 154</p> <p>1 A. I said one of Donna and Debbie's friends in 2 the magistrates' office sent it over to 3 Personnel. One of their friends who knew that 4 she wasn't there that week. We had no way of 5 knowing that -- who was there.</p> <p>6 Q. Okay. I sort of got stuck with Donna. Can you think of any other employees? And then I'm going to break. Any other employees that you terminated?</p> <p>7 A. No.</p> <p>8 Q. So possibly Allison, may have resigned or may have been terminated; Debbie Irby, who may have resigned or may have been terminated; and Donna is the only ones you can recall?</p> <p>9 A. And you said resigned or terminated.</p> <p>10 Q. Well, I think you said they may have resigned. But can you recall anybody else that you caused to be terminated?</p> <p>11 A. That I caused to be terminated?</p> <p>12 Q. Yeah.</p> <p>13 MS. NELSON: Object to the form.</p> <p>14 Q. Well, so far, you've given me one name.</p> <p>15 A. Employees who were terminated during my</p>	<p style="text-align: right;">Page 156</p> <p>1 Q. But if there were, I should have them, right?</p> <p>2 A. I don't know. If it's in his personnel file.</p> <p>3 Q. Then I should have it.</p> <p>4 A. I don't know.</p> <p>5 Q. Is that correct?</p> <p>6 A. I don't maintain personnel files.</p> <p>7 Q. All right. Who else?</p> <p>8 A. Who was terminated? Nancy Martin was 9 terminated.</p> <p>10 Q. And the two Marys, correct?</p> <p>11 A. Mary -- Mary Turner was terminated. Mary Beth 12 Brackin.</p> <p>13 Q. Anyone else?</p> <p>14 A. Not that I can think of. I'm sure there are 15 others, but I can't think of them right now.</p> <p>16 Q. Some others that you may have caused the termination?</p> <p>17 A. There might have been. 18 They caused their own termination by their 19 actions. Their actions caused their 20 termination. I didn't do any of it.</p> <p>21 Q. How do I get a list of these people who was terminated by you?</p>

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<p style="text-align: center;">Page 157</p> <p>1 A. I don't know. 2 Q. You don't know how I could get your list? 3 A. No. 4 Q. And you don't know how many there have been? 5 A. No. 6 Q. You have no way of finding out, let's say, at 7 lunchtime how many people you have caused the 8 termination of? 9 A. Not at lunchtime, no. 10 Q. It would take you longer than that? 11 A. Possibly. Yes, it would take longer than 12 lunch. 13 MS. NELSON: You've asked this question in 14 discovery, Mr. Jaffree. 15 MR. JAFFREE: Yeah. And what response did 16 I get? 17 MS. NELSON: I've responded to it. 18 MR. JAFFREE: Well, I'm not sure she have 19 given me all the names. Well, she 20 don't recall. 21 MS. NELSON: Well, you're asking her 22 cold. I mean, she's been judge for a 23 number of years. She's trying to give</p>	<p style="text-align: center;">Page 159</p> <p>1 A. I -- if I -- 2 Q. -- ethnic identity? 3 A. I probably would be if I had a specific name, 4 but I just -- I didn't -- I didn't base their 5 employment on their ethnicity. It didn't play 6 any part in their termination. It would have 7 been solely based on some action by them which 8 caused them to be terminated. It was not 9 initiated because of their race or sex. 10 MR. JAFFREE: Can we break now? 11 (Lunch recess) 12 Q. Michelle Bryan, you're familiar with her, 13 aren't you? 14 A. Yes. 15 Q. She resigned and then withdrew her 16 resignation, but she wasn't permitted to 17 withdraw her resignation. 18 Do you know the circumstances surrounding 19 that? 20 MS. NELSON: Object to form. Assumes 21 facts not in evidence. 22 A. I know that Michelle Bryan gave -- 23 MR. JAFFREE: From facts based on</p>
<p style="text-align: center;">Page 158</p> <p>1 you a best answer. I've given you 2 written responses. 3 Q. I don't have any other questions right now. 4 We could break. And I'll move on. I 5 apologize for getting into this dialogue with 6 you about Ms. Nichols. I just want to clarify 7 the one point of comp time, and you're 8 disputing that comp time? 9 A. I'm not -- no, I'm not disputing comp time as 10 a premise. I'm just not -- 11 MS. NELSON: She's testified that she was 12 terminated for falsification on time 13 cards. 14 A. And that she had all the due process afforded 15 her by the Civil Service Act. 16 Q. One point. Everybody that you have terminated 17 so far has been Caucasian; is that correct? 18 A. I'm not sure. Not -- they might have been. 19 Q. Is there any possibility that somebody who was 20 not Caucasian was terminated by you? 21 A. I've not thought about the ethnicity of the 22 people that were terminated. 23 Q. You're not aware of their --</p>	<p style="text-align: center;">Page 160</p> <p>1 documents you gave me. 2 A. I know she gave her resignation. And, you 3 know, at that time Personnel was probably 4 notified. All that went through our court 5 administrator. 6 Q. You had no role to do in the denial of her 7 attempt to withdraw her resignation? 8 A. Well, she -- she was resigned. She gave 9 notice and resigned. 10 Q. Yeah. But then she gave notice of her intent 11 to rescind that resignation. 12 A. Yeah. I don't know. I mean, I don't know 13 whether -- you know if Personnel had already 14 been notified, and the position was opened, 15 you know, she couldn't just rescind, I 16 assume. But, again, you know, all that went 17 through our court administrator. But once a 18 person resigns -- gives their notice that 19 they're leaving and we send it to Personnel, 20 they close it out. You know, there's nothing 21 we can do about it. 22 Q. All right. What amount of job performance 23 discretion did you permit Bettye King, the</p>

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<p>1 former administrator of the magistrates?</p> <p>2 A. What amount?</p> <p>3 Q. Yeah.</p> <p>4 A. In terms of percentages? You said, what</p> <p>5 amount? A lot or little?</p> <p>6 Q. I don't mean amount in terms of percentage. I</p> <p>7 mean, what degree of job performance</p> <p>8 discretion --</p> <p>9 A. I don't know.</p> <p>10 Q. -- you permitted Bettye King?</p> <p>11 A. Whatever degree of discretion she wanted. I</p> <p>12 mean, I -- you know, I try not to interfere</p> <p>13 with the day-to-day -- the only way I knew</p> <p>14 there was a problem over there is if somebody</p> <p>15 came to me or it was brought to my attention.</p> <p>16 I was not over there every day. I did</p> <p>17 not -- I could not physically be over there</p> <p>18 every day.</p> <p>19 Q. How long was Bettye King the administrator of</p> <p>20 the magistrates' office, do you know?</p> <p>21 A. I'm not sure. About two years I think.</p> <p>22 Q. And she preceded Nancy; is that correct?</p> <p>23 A. Probably, yes.</p>	<p>1 administrator?</p> <p>2 A. As compared to what? I mean, we're a</p> <p>3 bureaucracy, so we're always -- something is</p> <p>4 always going on.</p> <p>5 Q. Well, as compared to her predecessor?</p> <p>6 A. Her predecessor being Donna?</p> <p>7 Q. Was that her predecessor?</p> <p>8 A. The person immediately preceding her. Yes, I</p> <p>9 think Donna would be her predecessor. Just</p> <p>10 nothing specific stands out with problems.</p> <p>11 Q. Do you know why Ms. King left?</p> <p>12 A. She told me for a better job and because she</p> <p>13 was driving from Auburn to Dothan, three hours</p> <p>14 each way every day, five days a week.</p> <p>15 Q. Was Ms. King black or white?</p> <p>16 A. She was black.</p> <p>17 Q. Can you identify any occasion when you</p> <p>18 requested that Ms. King change a performance</p> <p>19 evaluation or any of the subcategories within</p> <p>20 an evaluation?</p> <p>21 MS. NELSON: Object to the form. I don't</p> <p>22 understand what you just asked.</p> <p>23 MR. JAFFREE: I cannot believe counsel is</p>
<p style="text-align: center;">Page 162</p> <p>1 Q. Did the magistrates' office have problems when</p> <p>2 Bettye King was the administrator?</p> <p>3 MS. NELSON: Object to the form.</p> <p>4 A. Right.</p> <p>5 Q. Right what, right what she did or right that</p> <p>6 you object to the form?</p> <p>7 MS. NELSON: Depending on what you meant</p> <p>8 by problems. But if she understands,</p> <p>9 she can answer it.</p> <p>10 A. Yeah. It depends on what you mean by</p> <p>11 problems.</p> <p>12 Q. Did they have personnel problems in the</p> <p>13 magistrate office when Bettye King was the</p> <p>14 administrator?</p> <p>15 A. And if I -- it just depends on what you mean</p> <p>16 by -- you'd have to ask Bettye King</p> <p>17 specifically.</p> <p>18 Q. Were you aware of any problems in the</p> <p>19 magistrate office when Bettye King was the</p> <p>20 administrator?</p> <p>21 A. Not specific problems. I mean, just a normal</p> <p>22 course of business of running an office.</p> <p>23 Q. Was it running quite well when she was the</p>	<p style="text-align: center;">Page 164</p> <p>1 having trouble understanding all these</p> <p>2 questions before --</p> <p>3 MS. NELSON: I am having a very hard time</p> <p>4 understanding your questions.</p> <p>5 Q. All right. I'll try again.</p> <p>6 Can you identify any occasion where you</p> <p>7 requested that Ms. King change a performance</p> <p>8 evaluation or any subcategory within the</p> <p>9 evaluation?</p> <p>10 A. Can I remember a specific occasion? No, I</p> <p>11 cannot remember a specific occasion when I</p> <p>12 informed -- asked Ms. Bettye King to change an</p> <p>13 evaluation or a subcategory thereof.</p> <p>14 Q. Is that something that you would normally</p> <p>15 remember?</p> <p>16 A. Not really because we have -- I mean, 12</p> <p>17 evaluations three -- twice a year. That's 24</p> <p>18 evaluations a year for the -- you know, for</p> <p>19 the past eight years.</p> <p>20 Q. A new non-tenured employee. Do you know what</p> <p>21 that means, non-tenured employee?</p> <p>22 A. No, I don't think so.</p> <p>23 MS. NELSON: There's no such thing.</p>

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<p style="text-align: right;">Page 165</p> <p>1 Q. A new non-permanent employee, non-merit system 2 employee, non-classified employee, how 3 frequently should they have evaluations done?</p> <p>4 MS. NELSON: Object to the form.</p> <p>5 A. Are you talking about probationary employees?</p> <p>6 Q. Yeah.</p> <p>7 A. Because I -- do we have a merit system here?</p> <p>8 You keep saying "merit." I'm confused.</p> <p>9 MS. NELSON: There is no merit. That's</p> <p>10 his term.</p> <p>11 Q. Or classified system. Merit is a broad 12 category that covers people who have job 13 protection in the government sector.</p> <p>14 MS. NELSON: That's your term.</p> <p>15 A. I've never heard of --</p> <p>16 MR. JAFFREE: Do you dispute that term?</p> <p>17 I'm doing the very thing I said I</p> <p>18 wasn't going to do.</p> <p>19 A. I don't think the City of Dothan has a merit</p> <p>20 system.</p> <p>21 Q. Regardless of whether you call it a merit 22 system or classified service system or a civil 23 service system.</p>	<p style="text-align: right;">Page 167</p> <p>1 to -- 2 A. When was I telling her?</p> <p>3 Q. -- when you told Nancy that?</p> <p>4 A. Well, we handle a large volume of paperwork,</p> <p>5 approximately 15 to 17,000 tickets per year,</p> <p>6 7,000 misdemeanors. And there's a lot of</p> <p>7 paperwork and a lot of loose paperwork, some</p> <p>8 of it attached by gem clips. And we were</p> <p>9 having problems with -- you know, keeping</p> <p>10 everything together. So I really wanted her</p> <p>11 to work on the filing system, on keeping</p> <p>12 paperwork together, and on cross-training</p> <p>13 magistrates. And that's something that was in</p> <p>14 place when she came, which I told her that we</p> <p>15 wanted to do.</p> <p>16 Q. What was something that was in place?</p> <p>17 A. That we -- we had already talked about</p> <p>18 cross-training before Nancy got there.</p> <p>19 Q. Who put it in place?</p> <p>20 A. We -- well, we developed the idea --</p> <p>21 Q. Who were "we"?</p> <p>22 A. -- when I say "in place."</p> <p>23 Q. Who were "we"?</p>
<p style="text-align: right;">Page 166</p> <p>1 A. Okay.</p> <p>2 Q. Whatever you call it, how frequently is a 3 probational employee evaluated?</p> <p>4 A. I don't think there's a set number of times.</p> <p>5 And I don't think there is. But I don't</p> <p>6 know. I'd have to refer to the Personnel</p> <p>7 Rules and Regulations.</p> <p>8 Q. You not personally familiar with them?</p> <p>9 A. I'm familiar with them. I'm just not familiar</p> <p>10 with the specific number of times at this</p> <p>11 point.</p> <p>12 Q. Nancy testified during her deposition that you 13 was present for, at least in part, yesterday 14 that during her initial or subsequent job 15 interview, you told her that there was 16 problems in the magistrate office.</p> <p>17 Do you dispute that you told her that?</p> <p>18 A. No, I don't dispute that.</p> <p>19 Q. Have those problems been longstanding in the 20 magistrate office?</p> <p>21 A. It depends on which problems because I think I</p> <p>22 was -- it depends on which problems.</p> <p>23 Q. Well, whatever problems you were referring</p>	<p style="text-align: right;">Page 168</p> <p>1 A. The prior administrator and -- and I had</p> <p>2 agreed that everybody needed to be</p> <p>3 cross-trained because that was one of the</p> <p>4 problems, that if one person wasn't there,</p> <p>5 there was nobody trained to take her place.</p> <p>6 Q. Well, there was one more than one prior 7 administrator. So are you talking about --</p> <p>8 A. I don't know which. We had -- we had already</p> <p>9 went --</p> <p>10 Q. You don't know if it was Bettye King or --</p> <p>11 A. I don't.</p> <p>12 Q. What's the other one's name? I keep 13 forgetting her name. What's the other 14 administrator prior to Bettye King; what's her 15 name?</p> <p>16 A. Prior to Bettye King would have been Donna</p> <p>17 Nicholson.</p> <p>18 Q. So you don't know whether it was Donna that 19 started the policy of cross-training or 20 Bettye?</p> <p>21 A. No. I don't -- I don't know under whose</p> <p>22 tenure it actually started. We had done it to</p> <p>23 a limited extent, but not a formalized</p>

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<p style="text-align: right;">Page 169</p> <p>1 written, you know, just let's-do-it-type 2 thing.</p> <p>Q. So the problem with these files, they had 3 existed during Ms. King's administration?</p> <p>4 A. It always exists just by the sheer volume of 5 paperwork we handle on a daily basis.</p> <p>Q. So you thought it was a problem that would 6 always be there?</p> <p>7 A. It would -- yeah, I think it will always be 8 there, but it can be managed better.</p> <p>Q. She also testified that you had pointed out 9 three bad magistrates that she needed to watch 10 out for.</p> <p>11 Do you remember that testimony?</p> <p>12 A. I remember her testimony.</p> <p>Q. Do you remember telling her that?</p> <p>13 A. No. I don't remember specifically saying, 14 there are three bad magistrates that you have 15 to watch out for, and naming three people.</p> <p>Q. So that would be a disputed --</p> <p>16 A. That would be a lie, and it would be 17 unprofessional. And I would never do that as 18 a personnel administrator.</p>	<p style="text-align: right;">Page 171</p> <p>1 MS. NELSON: Object to the form. 2 A. Yes, that -- I deny that, that that -- telling 3 her that -- 4 MS. NELSON: Okay. She'll pick it up.</p> <p>Q. Do you recall telling her anything at first 5 about any magistrate during that first 6 interview?</p> <p>7 A. I did not tell her anything adverse. I might 8 have told her the -- some facts but nothing 9 adverse like just intentionally negative about 10 anybody.</p> <p>Q. Did you give her some negative facts during 11 that first interview about any magistrate?</p> <p>12 A. I -- I -- no, I would not say negative facts. 13 Facts, period. It is what it is.</p> <p>Q. Well, facts that wasn't pleasant?</p> <p>14 A. I might have.</p> <p>Q. So you might have told her some bad facts 15 about a magistrate during that --</p> <p>16 MS. NELSON: Object to the form.</p> <p>Q. -- initial interview?</p> <p>17 A. No. 18 MS. NELSON: That's not her testimony.</p>
<p style="text-align: right;">Page 170</p> <p>Q. I don't understand what you mean by a lie.</p> <p>1 A. It would be a lie that I said, Nancy, there 2 are three bad magistrates in that office that 3 I want you to write up and their names are. I 4 wouldn't do that.</p> <p>Q. So it's your testimony that Nancy is lying --</p> <p>5 A. Yes.</p> <p>Q. -- when she say that?</p> <p>6 A. It is my testimony that Nancy is lying when 7 she said that I told her that there were three 8 bad magistrates in the office and that I named 9 those three magistrates.</p> <p>Q. You would agree with me that Nancy's version 10 and your version cannot stand in the same 11 sphere in perfect harmony?</p> <p>12 MS. NELSON: Object to the form. As to 13 that particular testimony?</p> <p>14 A. Nancy is lying. I never told her that.</p> <p>Q. She also indicated that you told her one of 15 the three had assaulted a member of management 16 and that she better be careful because they 17 could assault her.</p> <p>18 Do you dispute that you told her that?</p>	<p style="text-align: right;">Page 172</p> <p>1 A. Right. No, I don't. 2 Q. What is her testimony?</p> <p>3 A. My testimony is that -- that her first 4 interview was with a panel consisting of a 5 public defender, Kathleen Nemish; a city 6 prosecutor, Kevan Kelley; myself; and a police 7 captain.</p> <p>8 And that I would not have sat in that 9 first interview in front of those people and 10 said, Nancy, and said the things that she said 11 I said.</p> <p>Q. Let me stop --</p> <p>12 A. It was a professional interview, focus on 13 Nancy's qualifications for the job, which I 14 now see she -- which I later found out she 15 misrepresented.</p> <p>Q. I mean, you've certainly given me a lot of 16 unsolicited information right now. But if I 17 could get you back --</p> <p>18 A. You only want to hear --</p> <p>Q. -- to some questions that I want to give to 19 you.</p> <p>20 You indicated that a police captain was in</p>

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<p style="text-align: right;">Page 173</p> <p>1 on that interview?</p> <p>2 A. Uh-huh (positive response).</p> <p>3 MS. NELSON: You've got to say yes or no.</p> <p>4 A. Yes.</p> <p>5 Q. What role did the police captain play?</p> <p>6 A. Just sitting in on the interview process</p> <p>7 because that was one of the departments with</p> <p>8 which we work.</p> <p>9 Q. Well, didn't you testify earlier that the two</p> <p>10 agencies were --</p> <p>11 A. Separate.</p> <p>12 Q. -- independent and separate --</p> <p>13 A. Yes.</p> <p>14 Q. -- because they needed to be?</p> <p>15 A. Yeah. We also had a public defender who is a</p> <p>16 separate entity, a city prosecutor that's a</p> <p>17 separate entity --</p> <p>18 Q. Who's that --</p> <p>19 A. -- but we all have to interact with each</p> <p>20 other.</p> <p>21 Q. Whose idea was it to have a --</p> <p>22 A. Panel?</p> <p>23 Q. -- police captain --</p>	<p style="text-align: right;">Page 175</p> <p>1 Q. Facts about a magistrate?</p> <p>2 A. About the magistrates' office.</p> <p>3 Q. Did you give any facts about a magistrate?</p> <p>4 I'm just trying to get clear what your</p> <p>5 testimony is.</p> <p>6 MS. NELSON: Asked and answered.</p> <p>7 Q. And in spite of your attorney's --</p> <p>8 A. And I continue to say, no.</p> <p>9 Q. Pardon?</p> <p>10 A. I continue to say no. I just don't think I</p> <p>11 would do that.</p> <p>12 Q. Well, let's talk about your second interview.</p> <p>13 Did you tell her anything about three bad</p> <p>14 magistrates during her second interview?</p> <p>15 A. I just -- no. I just don't remember it being</p> <p>16 as specific as Nancy would allege. No.</p> <p>17 Q. Could it be that you told her that and you</p> <p>18 just don't recall?</p> <p>19 A. I would have recalled that.</p> <p>20 Q. You would recall that?</p> <p>21 A. Yes.</p> <p>22 Q. Did you give her any facts about any</p> <p>23 magistrate during that second interview?</p>
<p style="text-align: right;">Page 174</p> <p>1 A. It was mine to have a panel.</p> <p>2 Q. -- in on a -- I'm sorry. It was whose idea?</p> <p>3 A. Mine, to have a panel rather than just --</p> <p>4 Q. And whose idea was it to include in that panel</p> <p>5 a police captain?</p> <p>6 A. Mine I'm sure.</p> <p>7 Q. Did anybody recommend that you do that?</p> <p>8 A. No. Just like nobody recommended I get</p> <p>9 somebody from Personnel or Legal. Those are</p> <p>10 just people we had -- departments we had to</p> <p>11 deal with.</p> <p>12 Q. Is it safe to say, based on your testimony</p> <p>13 that during this first interview, even though</p> <p>14 it consisted of a panel, you may have given</p> <p>15 some facts that was not favorable towards a</p> <p>16 particular magistrate?</p> <p>17 A. It is not safe to say that, no.</p> <p>18 Q. But you may have given some facts about a</p> <p>19 magistrate?</p> <p>20 MS. NELSON: Asked and answered. That's</p> <p>21 not her testimony.</p> <p>22 MR. JAFFREE: I'm asking.</p> <p>23 MS. NELSON: She said she gave some facts.</p>	<p style="text-align: right;">Page 176</p> <p>1 A. A specific -- I would have -- no, not a</p> <p>2 specific magistrate. No.</p> <p>3 Q. You're very comfortable with your no position?</p> <p>4 A. Pretty much so.</p> <p>5 Q. Pretty much so. Okay.</p> <p>6 A. Yes. I am very comfortable because at all</p> <p>7 interviews there were other people.</p> <p>8 Q. Okay. Now, were you also present when Nancy</p> <p>9 testified that you subsequently told her</p> <p>10 specifics about certain magistrates before she</p> <p>11 started but after she was hired? Were you</p> <p>12 present when she testified to that?</p> <p>13 A. I was.</p> <p>14 Q. And that she learned that it was Mary Turner</p> <p>15 who had allegedly assaulted a person in</p> <p>16 management. Prior to Nancy's hire, did Mary</p> <p>17 Turner assault anyone in management?</p> <p>18 MS. NELSON: Object to the form. Is</p> <p>19 that -- object to the form. I'm not</p> <p>20 sure that was in any testimony I heard</p> <p>21 yesterday.</p> <p>22 Q. She also testified that Mary Brackin and Mary</p> <p>23 Turner were the two magistrates that caused</p>

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<p style="text-align: right;">Page 177</p> <p>1 the most trouble? 2 Do you recall that testimony? 3 A. That she testified that they were the two that 4 caused the most trouble? 5 Q. Yeah. 6 A. That she said that? 7 Q. That she said that you told her that? 8 A. Do I recall her saying that? 9 Q. Yeah. 10 A. Is that what you're asking? 11 Q. Well, forget about whether you recall her 12 saying that. Do you agree that you told her 13 that -- 14 A. No. 15 Q. -- at a subsequent meeting? 16 Do you agree or disagree that you told her 17 that these two magistrates was attempting to 18 sabotage you? 19 A. I -- I just don't think -- no. I just don't 20 think I would have told Nancy that. 21 Q. You're not quite sure? 22 A. I'm quite sure. No, not at -- I'm hiring 23 somebody. I wouldn't just sit there and tell</p>	<p style="text-align: right;">Page 179</p> <p>1 it, or you just think you probably didn't say 2 it? 3 A. I don't -- I don't see where I would have said 4 it. 5 Q. Okay. 6 A. There were other people in the interview. 7 Q. Were these two magistrates attempting to 8 sabotage you? 9 MS. NELSON: Object to form. 10 A. I don't know. 11 Q. You don't know whether Mary Turner and Mary 12 Brackin was attempting to sabotage you? 13 A. I have no specific knowledge of Mary Turner 14 and Mary attempting to sabotage me. 15 Q. What about attempting to sabotage prior 16 administrators, do you have any knowledge of 17 that? 18 A. Not Bettye King. 19 Q. Well, what about the other administrator? 20 A. Donna Nicholson? 21 Q. Uh-huh (positive response). Do you think 22 those two tried to sabotage her? 23 A. I don't have any specific knowledge that they</p>
<p style="text-align: right;">Page 178</p> <p>1 them that. That's somebody I've never met 2 before. No. 3 Q. So you're quite -- 4 A. No. 5 Q. You're quite equivocal that you didn't tell 6 her that? 7 A. I -- no -- I mean, yes, I'm sure that I did 8 not tell her that. 9 Q. And that these two was also attempting to 10 sabotage prior administrators? 11 A. Were attempting to? 12 Q. Sure. Had attempted to sabotage prior 13 administrators? 14 A. They had attempted to sabotage prior 15 administrators. I don't know. No. 16 Q. You didn't -- 17 A. I don't remember that. 18 Q. -- tell her that? 19 A. I don't remember saying that to her. 20 Q. You could have said that? 21 A. No. I don't see why I would have in an 22 interview -- on a job interview. No. 23 Q. Do you have a recollection that you didn't say</p>	<p style="text-align: right;">Page 180</p> <p>1 did. 2 Q. Okay. She also claims that you told her that 3 she had to be on the lookout for them, that 4 they would attempt bodily harm, and so she 5 needed to be careful? 6 A. That is a lie. I never told Mary -- Nancy 7 that Mary Turner and Mary Brackin would 8 attempt bodily harm on her. 9 Q. She also testified that you told her that -- 10 A. I would never condone that. 11 Q. Okay. She also testified that you told her 12 that Mary Beth was under investigation for 13 something that she had told a defendant. 14 MS. NELSON: Is that a question? 15 MR. JAFFREE: Yeah. 16 Q. Do you -- 17 A. I might have. 18 Q. Do you dispute that you told her that? 19 A. No, I don't dispute. 20 Q. So you may have told her that Mary Beth was 21 under investigation? 22 A. If she was at the time, yes. 23 Q. Had that investigation been completed by the</p>

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<p style="text-align: right;">Page 181</p> <p>1 time Nancy was being interviewed?</p> <p>2 A. I don't remember. I think the result -- no, I</p> <p>3 don't remember.</p> <p>4 Q. If it had been completed, would you have told</p> <p>5 her that she was under investigation?</p> <p>6 A. If it had been completed, would I have told</p> <p>7 her that it was still under investigation?</p> <p>8 Q. Yeah. Was this told to Nancy during the</p> <p>9 interview, that she was under investigation?</p> <p>10 A. I don't know why I would if it had been</p> <p>11 completed.</p> <p>12 Q. All right. So you may have told her, or you</p> <p>13 know that you did tell her that?</p> <p>14 A. Well, if it had completed, I wouldn't tell</p> <p>15 it's still going on. I would have no purpose</p> <p>16 for doing that.</p> <p>17 Q. She also testified during this meeting that</p> <p>18 you told her that Sarah Fowler wouldn't</p> <p>19 instigate anything on her own but she was a</p> <p>20 follower of Mary -- Mary Turner and Mary</p> <p>21 Brackin.</p> <p>22 Could you have told her that?</p> <p>23 A. I don't remember telling her that</p>	<p style="text-align: right;">Page 183</p> <p>1 leave time, that she was out sick a lot, out</p> <p>2 sick with her children.</p> <p>3 Could you have told her that?</p> <p>4 A. Possibly.</p> <p>5 Q. Would Nancy have known about that prior to her</p> <p>6 employment with the City?</p> <p>7 A. I don't know if she knew Michelle Bryan before</p> <p>8 she came to the City or not.</p> <p>9 Q. She also testified you told her that Michelle</p> <p>10 was very cute and divorced.</p> <p>11 Could you have told her that?</p> <p>12 MS. NELSON: When she did she testify to</p> <p>13 this? Object to the form.</p> <p>14 MR. JAFFREE: Well, I mean, look at the</p> <p>15 transcript. She did testify to that.</p> <p>16 A. "Very cute and divorced." I don't know.</p> <p>17 MS. NELSON: You said yesterday.</p> <p>18 MR. JAFFREE: Well, I recall the</p> <p>19 testimony.</p> <p>20 Q. Well, did you tell her that she was cute and</p> <p>21 divorced?</p> <p>22 A. I don't -- I don't remember specifically</p> <p>23 telling her that.</p>
<p style="text-align: right;">Page 182</p> <p>1 specifically, no.</p> <p>2 Q. Could you have told her that, perhaps in --</p> <p>3 not in those words but similar content?</p> <p>4 A. Possibly.</p> <p>5 Q. So you may have told her that?</p> <p>6 A. Possibly.</p> <p>7 Q. So if you had told her that Sarah Fowler was a</p> <p>8 follower of Mary Turner and Mary Brackin, then</p> <p>9 you may have told her something about Mary</p> <p>10 Turner and Mary Brackin; is that correct?</p> <p>11 A. I don't know. I mean, what I would have told</p> <p>12 her is what their job duties were, how they</p> <p>13 interacted in the office, because I was trying</p> <p>14 to give her a feel of the whole office. I</p> <p>15 would have told her about every magistrate. I</p> <p>16 wouldn't have just sat there and said</p> <p>17 something about three people --</p> <p>18 Q. Well, no --</p> <p>19 A. -- out of a whole office to a person I'd never</p> <p>20 met before. No.</p> <p>21 Q. She didn't say it was just limited to three.</p> <p>22 Now, with respect to Michelle Bryan, she</p> <p>23 said you told her that she was in a hole with</p>	<p style="text-align: right;">Page 184</p> <p>1 Q. Well, was Michelle Bryan, in your view, cute?</p> <p>2 A. No.</p> <p>3 Q. In your view, was Michelle Bryan divorced?</p> <p>4 A. I never thought she was divorced.</p> <p>5 Q. She also testified that --</p> <p>6 A. I thought she had a husband.</p> <p>7 Q. -- she socialized a lot in the office and that</p> <p>8 she talked on the phone with several police</p> <p>9 officers, and was dating several. This is her</p> <p>10 testimony.</p> <p>11 Did you tell her that?</p> <p>12 A. I don't -- that was kind of common knowledge</p> <p>13 around the office. I don't remember</p> <p>14 specifically telling her that.</p> <p>15 Q. But it was so common, you knew about it,</p> <p>16 right?</p> <p>17 A. Everybody knew about it.</p> <p>18 Q. Including you?</p> <p>19 A. Yes.</p> <p>20 Q. So you may have told her that?</p> <p>21 A. I don't remember -- I don't gossip like that</p> <p>22 with somebody I've never met before. No.</p> <p>23 Q. Well --</p>

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<p style="text-align: center;">Page 185</p> <p>1 A. No. 2 Q. If Nancy -- 3 A. No. 4 Q. So you didn't tell her that? 5 A. In her interview, Mr. Jaffree, I told her all 6 that in her job interview? 7 Q. Well, I'm telling you what Nancy says. 8 A. I'm asking. No, I did not, in a job 9 interview. 10 Q. No. She didn't say interview. 11 A. That's what you said. 12 Q. She said in a subsequent meeting, she said she 13 came in two or more times subsequently -- 14 subsequent to her being hired but before she 15 actually put boots in the ground to start 16 working physically in the facility, she said 17 she met with you and you told her this, one on 18 one, no committee, just you and her, mono to 19 mono. 20 Do you remember her testimony? 21 A. No. 22 Q. You don't remember her testimony? 23 A. No, not specifically.</p>	<p style="text-align: center;">Page 187</p> <p>1 Q. At any time, do you recall telling Nancy to 2 cut down on Michelle Bryan's socialization -- 3 socializing with men? 4 A. I don't specifically remember that, but I 5 remember that that was a problem during that 6 time. 7 Q. Do you generally remember telling Nancy that? 8 A. No, but I remember -- no. I don't remember 9 saying, Nancy -- 10 Q. So it was a problem? 11 A. Yes. 12 Q. So you could have told Nancy that? 13 A. Could I have told Nancy that, you need to stop 14 her from socializing? I just don't remember 15 specifically. 16 Q. Do you have any reason to believe that Nancy 17 would have had knowledge of Michelle's 18 socializing before she started working? 19 A. You said she had started working. 20 MS. NELSON: Well, if you're confused, ask 21 him to -- 22 A. Well, you said -- Q. She was hired but hadn't started -- there was</p>
<p style="text-align: center;">Page 186</p> <p>1 Q. She also testified that you would have to deal 2 with her dating and cut down on her 3 socialization -- socializing. 4 Could you have told her that? 5 MS. NELSON: You're talking still in the 6 time before she was hired? 7 MR. JAFFREE: Yeah. She was hired but 8 before she started working. 9 MS. NELSON: You said, before she "put 10 boots in the ground." I have no idea 11 what that means. You're saying, 12 before she was hired or after she -- 13 MR. JAFFREE: I said more than just boots 14 in the ground. I said boots in the 15 ground and started working at the 16 facility. 17 MS. NELSON: Before -- so you're asking 18 her, did she say -- we're talking 19 about a time frame before she started 20 working at the facility. 21 MR. JAFFREE: Subsequent to her hire but 22 before her start date. 23 A. So what was she doing?</p>	<p style="text-align: center;">Page 188</p> <p>1 a month or more gap between the time she was 2 hired and the time she started. 3 A. I don't know. She said, she knew Valarie 4 Savage and her family, and Valarie and 5 Michelle Bryan were best friends. 6 Q. So she could have gotten this information from 7 Valarie Savage? 8 A. Right. Or just -- I don't know. 9 Q. Or she could have gotten it from you; you're 10 not sure? 11 A. I don't know. 12 Q. She could have gotten it from you? 13 A. I don't -- I don't think so. 14 Q. Well, but that part of her -- 15 A. I wouldn't gossip with Nancy. 16 Q. Well, that part of her testimony could be 17 true? 18 A. No. No. 19 Q. You want to say no now? 20 A. Yeah, I want to say no. 21 Q. You feel comfortable with no? 22 A. Yeah. Yes, I feel comfortable with no. I 23 wouldn't sit there and gossip with an employee</p>

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<p>1 that I had just --</p> <p>2 Q. She also stated that you wanted her -- that 3 she needed to look out for Valarie Savage, 4 that she had many problems in her previous 5 employment as secretary to Judge Steensland.</p> <p>6 Do you know if Valarie Savage formerly 7 worked for Judge Steensland?</p> <p>8 A. I know she worked for a circuit judge, and I 9 vehemently deny ever telling her that or that 10 Valarie slept with prisoners. I vehemently 11 deny that.</p> <p>12 Q. Well, I haven't got to that yet.</p> <p>13 A. I heard her say that yesterday.</p> <p>14 Q. But you do remember that testimony?</p> <p>15 A. I vehemently deny all statements she made 16 about Valarie Savage.</p> <p>17 Q. That her attitude was bad and that you should 18 have fired her a long time ago?</p> <p>19 A. Valarie is one of our most prized employees. 20 And I value her.</p> <p>21 Q. Are you disputing that testimony?</p> <p>22 A. I dispute that. And I'm appalled that Nancy 23 would say that, and I hope she's not told her</p>	<p>1 that --</p> <p>2 A. She might have.</p> <p>3 Q. -- that she slept with inmates?</p> <p>4 A. She -- I don't know. She might have. I -- I 5 love Valarie.</p> <p>6 Q. Did you caution her that she could be sleeping 7 with inmates here in the municipal court 8 system?</p> <p>9 A. No, I did not tell her that. I did not tell 10 Nancy that about Valarie Savage.</p> <p>11 Q. You dispute that?</p> <p>12 A. I dispute that vehemently, 13 V-E-H-E-M-E-N-T-L-Y. Vehemently deny that.</p> <p>14 Q. And then she went on to --</p> <p>15 A. I'm sorry.</p> <p>16 Q. And then she went on to Ann Baxter, and she 17 said you mentioned that she was nice and would 18 do anything for you, but she had problems 19 balancing money.</p> <p>20 Now, could you have told her that Ann 21 Baxter, sweet person, but had problems 22 balancing money? Could you have told her 23 that?</p>
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<p>1 that.</p> <p>2 Q. Okay. And that she has slept with inmates 3 apparently when she worked at Judge 4 Steensland's office, and that was one of the 5 reasons why they had to let her go?</p> <p>6 A. Well, why did I hire her if I knew all that?</p> <p>7 Q. Well --</p> <p>8 A. If I told her all that, but I hired her 9 anyway?</p> <p>10 Q. I'm not in your head.</p> <p>11 A. Well, it's just ludicrous, is all I'm saying. 12 I deny telling that.</p> <p>13 Q. So you deny -- you dispute that testimony?</p> <p>14 A. Yes, I dispute telling Nancy that.</p> <p>15 Q. Do you know how Nancy would have known that 16 Valarie Savage worked for Judge Steensland?</p> <p>17 A. She said that she and Valarie's family were 18 friends and that Valarie's aunt was her best 19 friend's mother; she knew members of her 20 family.</p> <p>21 Q. So you think maybe --</p> <p>22 A. Do you remember that testimony yesterday?</p> <p>23 Q. Do you think that Valarie may have told her</p>	<p>1 A. I'm not sure.</p> <p>2 Q. Did Ann Baxter have problems balancing money?</p> <p>3 A. She had problems with the computer system that 4 was in place at the time. I don't know if 5 Nancy might have misunderstood.</p> <p>6 Q. So you could have said something --</p> <p>7 A. About the computer system.</p> <p>8 Q. -- and Nancy misunderstood?</p> <p>9 A. Shy might have.</p> <p>10 Q. Could she have misunderstood what you said 11 about Valarie?</p> <p>12 A. Valarie. I -- I -- not only did she 13 misunderstand that, I never would have sat 14 there in a professional job interview and 15 gossip and malign people.</p> <p>16 Q. So it's your testimony that Nancy just made 17 all this up out of whole cloth?</p> <p>18 A. No. I think Nancy heard that from gossiping 19 in the office with Mary Beth and Mary Turner 20 and Valarie, whoever else she gossiped with.</p> <p>21 Q. Upon what do you premise your remarks, that 22 Nancy heard that from Mary Beth and Mary 23 Turner?</p>

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1 A. I said whoever she gossiped with.	1 liaison between the computer system and us.	2 Q. Well, you first said Mary Beth and Mary	2 The city manager appointed her. So Valarie
2 Q. Well, you first said Mary Beth and Mary	3 Savage might have been working on the computer	3 Turner.	4 problem errors that Ann was having.
4 A. I said Mary Beth or whoever she gossiped with.	5 Q. Is it conceivable that Valerie may have	5	5
5 Q. Well, who all did Mary gossip with -- I'm	6 been -- Valerie Harris, that is, may have been	6	6
6 sorry -- Nancy gossip with?	7 investigating --	7	7
7 A. It looks like everybody from what you're	8 A. Computer problems.	8	8
8 saying.	9 Q. -- Ann Baxter?	9	9
9 Q. Well, based --	10 A. Computer problems. Ann bore the brunt of it	10	10
10 A. Because you sure knew a lot.	11 because she worked the window. She worked the	11	11
11 Q. Well, based on your personal knowledge, who	12 window, so she was the one entering. And so	12	12
12 all does she gossip with?	13 she had more computer errors.	13	13
13 A. I have -- I don't have no personal knowledge	14 Q. Well, my question is, whatever Ms. Harris was	14	14
14 of whom Nancy gossiped with.	15 investigating, it could have involved Ann	15	15
15 Q. With respect to Ann Baxter, I think she also	16 Baxter?	16	16
16 said that she makes numerous mistakes in	17 A. It could have. Yes, it could have, and	17	17
17 computer entry.	18 computer errors.	18	18
18 Did you tell her that?	19 Q. So you could have -- and you may have told	19	19
19 MS. NELSON: Are we talking about Ann --	20 Nancy that?	20	20
20 MR. JAFFREE: Ann Baxter.	21 A. Right.	21	21
21 MS. NELSON: Ann Baxter? So your question	22 Q. Just like you have admitted that you told her	22	22
22 is, did the judge --	23 about this other investigation involving	23	23
23 Q. Tell Nancy that, that Ann Baxter makes			
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1 numerous mistakes in computer entry?	1 Ms. Brackin, you also could have told her	1	1
2 A. I don't know. I remember telling her that	2 about the investigation involving Ann Baxter?	2	2
3 there were a lot of computer problems. And	3 A. But what I told you about the investigation,	3	3
4 Ann -- because Ann was working the window, she	4 if it was closed, I would never have told her	4	4
5 had to bear the brunt of it.	5 it was ongoing. If it was closed, it was	5	5
6 Q. So you may have told her that part?	6 over.	6	6
7 A. That they had computer problems, yes.	7 Q. Well, maybe it wasn't closed. I mean, this	7	7
8 Q. So you may have told her that.	8 was in December I guess or maybe in January.	8	8
9 A. That they had computer problems.	9 A. Yeah, I don't.	9	9
10 Q. Do you recall telling her that, or you may	10 Q. So maybe it wasn't closed?	10	10
11 have told her that?	11 A. But if I was trying to give her an overview of	11	11
12 A. I may have told her they had computer	12 the office, I might have said some of those	12	12
13 problems.	13 things.	13	13
14 Q. So you can't dispute that?	14 Q. You might have said some of those things.	14	14
15 A. No, that they had -- were having computer	15 A. But Nancy has taken them and distorted them	15	15
16 problems. No.	16 for the purposes of this lawsuit. That's what	16	16
17 Q. So we're parsing out what you may have told	17 she's done.	17	17
18 and not told her about Ann.	18 Q. That's what you think, she's distorted them?	18	18
19 She also stated that you told her that Ann	19 A. That's what I know. I was there.	19	19
20 was, at that time, being investigated by	20 Q. Haven't Nancy been consistent --	20	20
21 Valerie Harris.	21 A. No.	21	21
22 Q. Are you familiar with Valerie Harris?	22 Q. -- on what she saying?	22	22
23 A. I'm am. She was an internal auditor doing the	23 A. No.	23	23

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<p style="text-align: right;">Page 197</p> <p>1 Q. Even prior to this lawsuit?</p> <p>2 A. No.</p> <p>3 Q. Well, I read this little laundry list of stuff 4 that she had --</p> <p>5 A. Nancy had.</p> <p>6 Q. -- before this lawsuit.</p> <p>7 MS. NELSON: Well, just let him ask the 8 questions. I don't understand the 9 question, consistent with -- I'm 10 not --</p> <p>11 MR. JAFFREE: You don't understand what 12 question?</p> <p>13 MS. NELSON: I don't understand the 14 question.</p> <p>15 MR. JAFFREE: Which question, none of 16 them?</p> <p>17 MS. NELSON: About her being consistent. 18 With what, I'm not sure. You were 19 trying to ask her.</p> <p>20 MR. JAFFREE: I don't remember either now. 21 Let me move on.</p> <p>22 Q. Do you recall telling Nancy that Ann Baxter 23 had a lot of money?</p>	<p style="text-align: right;">Page 199</p> <p>1 Nancy that?</p> <p>2 A. I don't think so.</p> <p>3 Q. So you don't know how Nancy got this 4 information?</p> <p>5 A. No.</p> <p>6 Q. So if Nancy says you told her, you would 7 dispute that?</p> <p>8 A. Pretty much, yes.</p> <p>9 Q. Now --</p> <p>10 A. I would dispute all of the stuff that she 11 said.</p> <p>12 Q. All of the magistrates that I have mentioned 13 so far that Nancy said you told her some 14 things about, were they white or black?</p> <p>15 A. Probably white because the majority --</p> <p>16 Q. You're not sure?</p> <p>17 A. -- of the office is white.</p> <p>18 Q. You're not sure?</p> <p>19 A. I'd have to go back through each one, but 20 probably, more than likely white.</p> <p>21 Q. Well, how far would you have to go back to 22 know whether or not the people I just 23 mentioned are white or black?</p>
<p style="text-align: right;">Page 198</p> <p>1 A. I don't know how I would have known that. No, 2 I don't recall telling her that.</p> <p>3 Q. Did you know that Ann Baxter had a lot of 4 money?</p> <p>5 A. No.</p> <p>6 Q. Did you know Ann Baxter owned a real estate 7 company?</p> <p>8 A. I know she had previously.</p> <p>9 Q. Did you tell Nancy that she had owned a real 10 estate company?</p> <p>11 A. I'm not sure. I don't recall.</p> <p>12 Q. Did you know that Ann Baxter inherited land 13 from a family member?</p> <p>14 A. I don't -- I don't know. No. I don't --</p> <p>15 didn't know Ann that well -- I mean, to know 16 all that.</p> <p>17 Q. Well, do you know that now?</p> <p>18 A. No. I know that she owned a real estate 19 company before.</p> <p>20 Q. What about inherited money from a family 21 member; did you know that?</p> <p>22 A. No.</p> <p>23 Q. You don't know that now? So you didn't tell</p>	<p style="text-align: right;">Page 200</p> <p>1 A. To the beginning of your list. You asked me 2 about -- who? Mary Beth is white. Mary 3 Turner is white. Ann Baxter is white. Who 4 else you asked me about?</p> <p>5 MS. NELSON: Sarah Fowler.</p> <p>6 A. Sarah Fowler is white. The office was --</p> <p>7 MS. NELSON: Michelle Bryan.</p> <p>8 A. -- predominantly white. Michelle Bryan.</p> <p>9 Q. All right. Now, would you agree that if 10 Nancy's version is correct, then you said 11 something negative about each of those people?</p> <p>12 MS. NELSON: Object to the form.</p> <p>13 A. If Nancy's version were correct, yeah.</p> <p>14 Q. So you gave her sort of a negative picture of 15 each of these white --</p> <p>16 MS. NELSON: Object to the form. She's 17 just denied most everything you've 18 asked her about.</p> <p>19 Q. My question is, if Nancy's version is correct, 20 you gave her a negative view of each of these 21 white magistrates.</p> <p>22 MS. NELSON: Object.</p> <p>23 Q. Is that correct?</p>

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